



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001

(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

February 12, 2021

The Honorable Charles Allen  
Chairman of the Committee on the Judiciary and Public Safety  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W., Suite 109  
Washington D.C. 20004

### **RE: Criminal Code Reform Commission Responses to Performance Oversight Questions.**

Dear Chairman Allen:

Thank you for the opportunity to provide responses to the performance oversight questions in the Committee on the Judiciary and Public Safety's correspondence dated February 3, 2021. The responses of the Criminal Code Reform Commission (CCRC) are presented below for your review, with attached appendices. I look forward to providing testimony and discussing these and any other questions you might have at the agency's oversight hearing.

Sincerely,

Richard Schmechel  
Executive Director

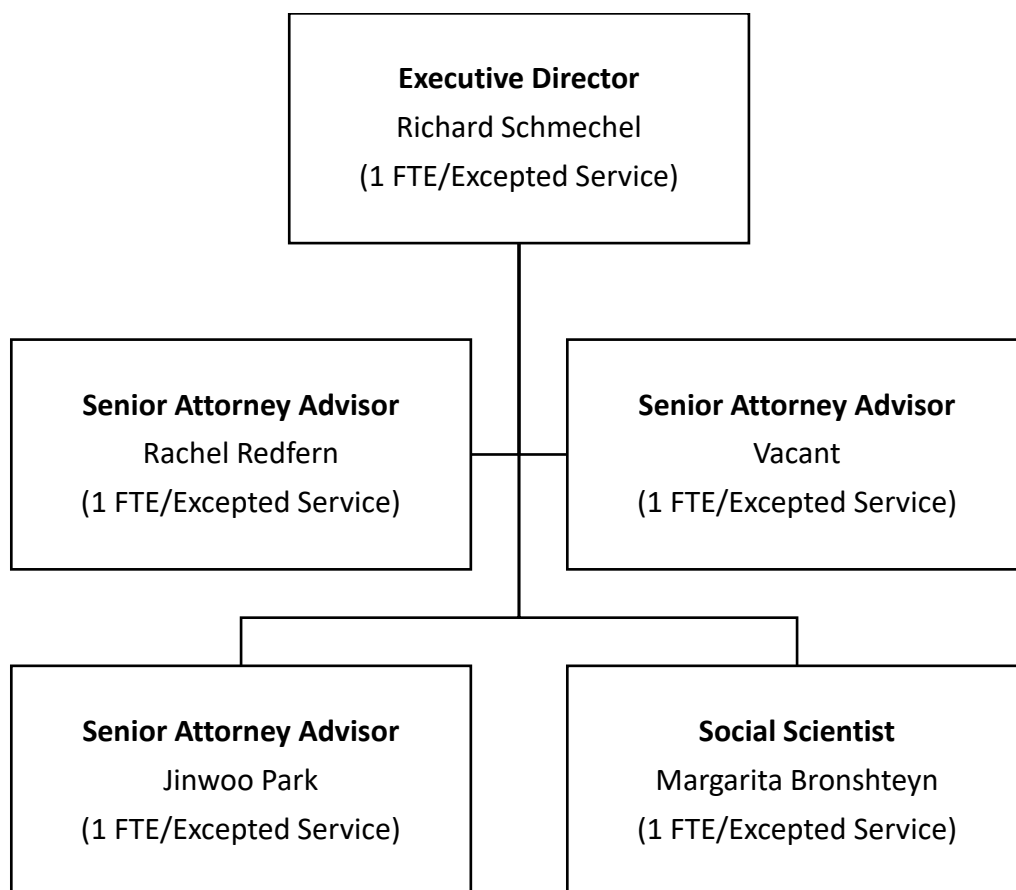
#### Attachments

1. Appendix A - CCRC Advisory Group Agendas and Minutes FY20 and FY21 (To Date)
2. Appendix B - Agency Work Plan (2-8-21)

## General Questions

- 1. Please provide a current organizational chart for the agency, including the number of vacant, frozen, and filled positions in each division or subdivision. Include the names and titles of all senior personnel, and note the date the information was collected on the chart.**

As of 2/8/21 the agency has 1 vacant, 0 frozen, and 4 filled positions.



- a. Please provide an explanation of the roles and responsibilities of each division and subdivision.**

The CCRC has no divisions or subdivisions.

- b. Please provide a narrative explanation of any changes to the organizational chart made during the previous year.**

In August 2020, an attorney advisor resigned from their position and the vacancy was backfilled with the hiring of Margarita Bronshteyn in October 2020 as a social scientist. The change provides staff with an internal capability to conduct social science research and data analysis. Subsequently, in December 2020, another

attorney advisor resigned, resulting in the current vacancy. A vacancy announcement recently was publicly posted for a senior attorney advisor.

2. Please provide a current Schedule A for the agency which identifies each filled, vacant, unfunded, and funded position by program and activity, with the employee's name (if filled), title/position, salary, fringe benefits, and length of time with the agency (if filled). Please note the date the information was collected. The Schedule A should also indicate if the position is continuing/term/temporary/contract or if it is vacant or frozen. Please separate salary and fringe and indicate whether the position must be filled to comply with federal or local law.

DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION (MA0)											Vacant Status	FTE		
FY 2021 SCHEDULE A (as of January 31, 2021)											Filled	4		
											Vacant	1		
											Total	5		
Agency Code	Fiscal Year	Position#	Program Code	Activity Code	Filled, Vacant or Frozen	Position Title	Employee Name	Hire Date	Grade	Step	Salary	Fringe Benefits	FTE	Reg/Temp/Term
MA0	2021	00001748	1001	1010	Vacant	Sr. Attorney Advisor			8	0	125,447	27,598	1	Reg
MA0	2021	00047268	1001	1010	Filled	Executive Director	Schmechel, Richard S	11/5/2012	9	0	141,280	31,082	1	Reg
MA0	2021	00075456	1001	1010	Filled	Sr. Attorney Advisor	Park, Jinwoo	9/9/2013	8	0	113,905	25,059	1	Reg
MA0	2021	00075457	1001	1010	Filled	Social Scientist	Bronshiteyn, Margarita A	10/13/2020	6	0	77,500	17,050	1	Reg
MA0	2021	00075475	1001	1010	Filled	Sr. Attorney Advisor	Redfern, Rachel S	1/14/2013	8	0	114,622	25,217	1	Reg
Agency Grand Total											572,754	126,006	5	

Please note that the Schedule A reflects 4 filled and one vacant, continuing positions. A vacancy announcement has been posted online and the agency is now collecting applications for review. The agency has only one program code (1001) and activity code (1010). None of the positions must be filled to comply with federal or local law.

3. Please list all employees detailed to or from your agency during FY20 and FY21, to date. For each employee identified, please provide the name of the agency the employee is detailed to or from, the reason for the detail, the date of the detail, and the employee's projected date of return.

None.

4. Please provide the Committee with:

- a. A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned, as well as a description of all vehicle collisions involving the agency's vehicles in FY20 and FY21, to date; and

None

- b. A list of travel expenses, arranged by employee for FY20 and FY21, to date, including the justification for travel.

None.

- 5. Please list all memoranda of understanding (“MOU”) entered into by the agency in FY20 and FY21, to date, as well as any MOU currently in force. For each, indicate the date into which the MOU was entered and the termination date.**

The OFRM MOU provides funding for use of the District Purchase Card, the primary means of purchasing for the agency, given its small size. The DCHR MOU provides funding for HR services provided to the agency. Both run on a fiscal year basis. The CCRC also has a restricted data use agreement (RDUA) in force with the DC Courts that allows the agency to have access to certain court data and to conduct limited analyses—the RDUA does not have an expiration date.

- 6. Please list the ways, other than MOU, in which the agency collaborated with analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations in FY20 and FY21, to date.**

The CCRC’s Advisory Group, per the CCRC statute, includes representatives of the Deputy Mayor for Public Safety, the Council Committee on the Judiciary and Public Safety, the Attorney General for the District of Columbia, the Director of the Public Defender Service for the District of Columbia, and the United States Attorney for the District of Columbia. The CCRC continually works with these institutions and their representatives to develop criminal code reform recommendations.

The Executive Director also participates as a Liaison on behalf of the agency to the American Law Institute’s Model Penal Code Sexual Assault Project.

- 7. For FY20 and FY21, to date, please list all intra-District transfers to or from the agency, and include a narrative description of the purpose of each transfer.**

The OFRM transfer provides funding for use of the District Purchase Card, the primary means of purchasing for the agency, given its small size. The OCTO transfers provide funding for basic IT services—internet and phone—for the agency. The DCHR transfer provides funding for HR services provided to the agency.

FY 2020 Intra-District Summary - BUYER			
DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION (MA0)			
SELLING AGENCY	DESCRIPTION OF SERVICES PROVIDED	FUNDING SENT	FUNDING DUE
OFRM	Purchase/Travel Card	14,952	0
OCTO	IT Assessment	5,376	0
OCTO	DCNet/Non DCNet Assessment	6,600	
TOTAL		26,928	0

FY 2020 Intra-District Summary - SELLER			
DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION (MA0)			
BUYING AGENCY	DESCRIPTION OF SERVICES PROVIDED	FUNDING RECEIVED	FUNDING OWED
None		0	0
TOTAL		0	0

FY 2021 Intra-District Summary - BUYER			
DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION (MA0)			
SELLING AGENCY	DESCRIPTION OF SERVICES PROVIDED	FUNDING SENT	FUNDING DUE
OFRM	Purchase/Travel Card	10,000	0
OCTO	IT Assessment	6,000	0
OCTO	DCNet/Non DCNet Assessment	0	0
DCHR	Processing of HR related requests	4,498	0
TOTAL		20,498	0

FY 2021 Intra-District Summary - SELLER			
DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION (MA0)			
BUYING AGENCY	DESCRIPTION OF SERVICES PROVIDED	FUNDING RECEIVED	FUNDING OWED
None		0	0
TOTAL		0	0

8. For FY20 and FY21, to date, please identify any special purpose revenue funds maintained by, used by, or available for use by the agency. For each fund identified, provide:

- a. The revenue source name and code;
- b. The source of funding;
- c. A description of the program that generates the funds;
- d. The amount of funds generated by each source or program;
- e. Expenditures of funds, including the purpose of each expenditure;
- f. Whether expenditures from the fund are regulated by statute or policy, and if so, how; and
- g. The current fund balance.

No special purpose revenue funds of any kind.

9. For FY20 and FY21, to date, please list all purchase card spending by the agency, the employee making each expenditure, and the general purpose of each expenditure.

Transaction Date	Amount	Purchaser	Purpose
01/25/2021	\$2,400.00	J. Park	Data Analysis
01/09/2020	\$25.57	J. Park	Office supplies
10/15/2020	\$67.83	J. Park	Office supplies
10/08/2020	\$3,654.00	J. Park	Legal Research Online Services
10/08/2020	\$25.26	J. Park	Office supplies
08/12/2020	\$475.94	J. Park	Software
08/11/2020	\$290.42	J. Park	Office supplies
08/11/2020	\$211.99	J. Park	1 Printer
08/10/2020	\$174.00	J. Park	Office supplies
08/04/2020	\$2,718.00	J. Park	2 Laptop Computers
07/31/2020	\$2,399.00	J. Park	1 Laptop computer
07/22/2020	\$600.00	J. Park	Data Analysis
07/09/2020	\$6.89	J. Park	Office supplies
07/09/2020	\$129.78	J. Park	Office supplies
04/29/2020	\$1,450.00	J. Park	Legal Research Online Services
04/23/2020	\$2,240.00	J. Park	Data Analysis
10/10/2019	\$160.00	J. Park	Data Analysis
09/08/2020	\$95.00	J. Park	Vacancy Posting/Recruitment
09/04/2020	\$47.45	J. Park	Office supplies
08/16/2020	\$192.49	J. Park	Office supplies
08/12/2020	\$69.11	J. Park	Office supplies
07/30/2020	\$45.00	J. Park	Legal Research Materials
07/11/2020	\$29.87	J. Park	Office supplies
04/22/2020	\$68.75	J. Park	WMATA (Metro)
03/16/2020	\$293.65	J. Park	WMATA (Metro)
02/18/2020	\$207.15	J. Park	WMATA (Metro)
01/16/2020	\$180.10	J. Park	WMATA (Metro)
12/16/2019	\$166.85	J. Park	WMATA (Metro)
11/18/2019	\$229.95	J. Park	WMATA (Metro)
10/16/2019	\$211.75	J. Park	WMATA (Metro)
01/24/2020	\$156.00	J. Park	Office supplies
01/06/2020	\$84.00	J. Park	Office supplies
01/15/2020	\$50.00	J. Park	WMATA (Metro)
01/08/2020	\$30.00	J. Park	WMATA (Metro)
12/02/2019	\$56.25	J. Park	Legal Research Materials

11/21/2019	\$49.95	J. Park	Legal Research Materials
11/07/2019	\$1,763.30	J. Park	Legal Research Online Services
10/22/2019	\$19.50	J. Park	Office supplies
01/14/2020	\$24.78	J. Park	Office supplies
10/15/2020	\$29.08	J. Park	Office supplies

- 10. Please list all capital projects in the financial plan for the agency or under the agency's purview in FY20 and FY21, to date, and provide an update on each project, including the amount budgeted, actual dollars spent, and any remaining balances (please also include projects for the benefit of the agency that are in the budget of the Department of General Services or another agency). In addition, please provide:**

- a. A narrative description of all capital projects begun, in progress, or concluded in FY19, FY20, and FY21, to date, including the amount budgeted, actual dollars spent, any remaining balances, and the work undertaken;
- b. An update on all capital projects planned for the four-year financial plan;
- c. A description of whether the capital projects begun, in progress, or concluded in FY19, FY20, and FY21, to date, had an impact on the operating budget of the agency. If so, please provide an accounting of such impact; and
- d. A description and the fund balance for any existing allotments.

None.

- 11. Please provide a list of all budget enhancement requests (including capital improvement needs) for FY20 and FY21, to date. For each, include a description of the need and the amount of funding requested.**

The CCRC made no budget enhancement requests for FY 19 and FY 20.

- 12. Please list, in chronological order, each reprogramming in FY20 and FY21, to date, that impacted the agency, including those that moved funds into the agency, out of the agency, or within the agency. Include known, anticipated reprogrammings, as well as the revised, final budget for your agency after the reprogrammings. For each reprogramming, list the date, amount, rationale, and reprogramming number.**

DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION (MA0)							
FY 2020 REPROGRAMMING LIST							
	LOCAL					Starting Budget	\$723,217
FISCAL YEAR	FUND	DATE	SOAR DOC #	Program	Activity	DESCRIPTION	AMOUNT
2020	0100	8/5/2020	BJSUPPLI	Various	1090	FY 2020 Supplemental Budget	(\$68,779)
2020	0100	9/30/2020	BJFBFR20	Various	1090	Year-End reprogramming to FB0 and FR0	(\$14,000)
						Final Budget	\$640,438
DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION (MA0)							
FY 2021 REPROGRAMMING LIST							
	LOCAL					Starting Budget	\$813,016
FISCAL YEAR	FUND	DATE	SOAR DOC #	Program	Activity	DESCRIPTION	AMOUNT
2021	0100					None	\$0
2021	0100						\$0
						Final Budget	\$813,016

13. Please list each grant or sub-grant received by your agency in FY20 and FY21, to date. List the date, amount, source, purpose of the grant or sub-grant received, and amount expended.

- How many FTEs are dependent on grant funding?
- What are the terms of this funding?
- If it is set to expire, what plans, if any, are in place to continue funding the FTEs?

No grants or sub-grants.

14. Please list each grant or sub-grant granted by your agency in FY20 and FY21, to date. List the date, amount, source, and purpose of the grant or sub-grant granted.

None.

15. Please list each contract, procurement, and lease entered into or extended and option years exercised by your agency during FY20 and FY21, to date. For each contract, procurement, or lease, please provide the following information, where applicable:

- The name of the party;
- The nature of the contract, procurement, or lease, including the end product or service;
- The dollar amount of the contract, procurement, or lease, including amount budgeted and amount actually spent;
- The term of the contract, procurement, or lease;



- e. **Whether it was competitively bid;**
- f. **The name of the agency's contract monitor(s) and the results of any monitoring activity; and**
- g. **The funding source.**

The agency entered into one contract for services in this timeframe:

- a. Party: Justice Policy Institute
  - b. Nature: Strategic communications and public relations services.
  - c. Amount: \$100,000 (budgeted, contract currently underway and no funds spent to date)
  - d. Term: 12-11-20 to 9-30-21
  - e. Competitively Bid: No, sole source contracting procedures were followed by OCP
  - f. Contract Monitor: Contract Officer OCP Yvonne Howerton; Contract Administrator CCRC Richard Schmechel – No issues to date
  - g. Funding Source: Local funds
16. **Please list and describe all pending and closed lawsuits that name or named the agency as a party in FY20 and FY21, to date, and include an explanation about the issues involved in each case. Identify which cases on the list are lawsuits that potentially expose the District to significant financial liability or could result in a change to agency practices, and describe the current status of the litigation.**

No pending or closed lawsuits.

17. **Please list all judgments against and settlements executed by the agency or by the District on behalf of the agency, of any amount, in FY20 or FY21, to date, and provide the parties' names, the date on which the judgment was issued or settlement was executed, the amount of the judgment or settlement, and if related to litigation, the case name, docket number, and a brief description of the case. Include non-monetary costs such as backpay and leave restoration. If unrelated to litigation, please describe the underlying issue or reason for the judgment or settlement (e.g. excessive use of force, wrongful termination, sexual harassment). Please also describe any matters which are currently in settlement negotiations or for which a judgment is imminent.**

No judgments or settlements.

18. **Did the agency use outside counsel in FY21 and FY22, to date? If so, for what matter(s) and in what amount(s)?**

No use of outside counsel.

19. **Please list the administrative complaints or grievances that the agency received in FY20 and FY21, to date, broken down by source. Please describe the process utilized to respond to any complaints and grievances received and any changes to agency policies or procedures that have resulted from complaints or grievances received. For**

**any complaints or grievances that were resolved in FY20 or FY21, to date, describe the resolution.**

No administrative complaints or grievances received. Should a complaint or grievance arise, the agency would follow standard District Personnel Manual practices and procedures.

- 20. Please describe the agency's procedures for investigating allegations of sexual harassment, sexual misconduct, or discrimination committed by or against agency employees. List and describe any allegations relating to the agency or its employees in FY20 and FY21, to date, and whether and how those allegations were resolved (e.g. a specific disciplinary action, such as re-training, employee transfer, suspension, or termination).**

The agency policy is to follow the District Personnel Manual in investigating complaints and grievances. The agency has coordinated with DCHR so that their designated Sexual Harassment Officer is available to any CCRC employee. Although the CCRC is a small, independent agency not subordinate to the Mayor, this action was taken to comply with the 12/18/17 Mayor's Order regarding Sexual Harassment Officers.

The CCRC has not received any allegations of sexual harassment or discrimination to date.

- a. Please also identify whether the agency became aware of any similar matters in FY20 or FY21, to date, through means other than an allegation, and if so, how the matter was resolved (e.g. sexual harassment was reported to the agency, but not by the victim).**

None.

- 21. Please provide the Committee with a list of the total workers' compensation payments paid by the agency or on the agency's behalf in FY20 and FY21, to date, including the number of employees who received workers' compensation payments, in what amounts, and for what reasons.**

None.

- 22. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency, or any investigations, studies, audits, or reports on the agency or any employee of the agency that were completed during FY20 and FY21, to date.**

None.

- 23. Please describe any spending pressures the agency experienced in FY20 and any anticipated spending pressures for the remainder of FY21. Include a description of the pressure and the estimated amount. If the spending pressure was in FY20,**

**describe how it was resolved, and if the spending pressure is in FY21, describe any proposed solutions.**

The CCRC did not experience any spending pressures in FY20 and at this time has no anticipated spending pressures for the remainder of FY21 if there is no reduction in its appropriated funds.

However, the agency notes that in both FY20 and FY21 the agency's financial status has been extremely uncertain, resulting in reduced agency spending on planned purchases and year-end budget surpluses. In FY20, this uncertainty existed because of the possibility of agency cuts due to the public health emergency. Additionally, it was unclear until mid to late FY20 whether the agency would be permanently extended. Again in FY21, the possibility of a mid-year reduction in funding due to the public health emergency has forced the agency to forestall spending to cover the possible reduction. Given the agency's small size and the fact that nonpersonal services (NPS) make up a very small fraction of the budget, the possibility of cuts (even of a few percent) effectively freezes all discretionary spending in order to assure that the agency has funds to cover the proposed cuts.

- 24. Please provide a copy of the agency's FY20 performance plan. Please explain which performance plan objectives were completed in FY20 and whether they were completed on time and within budget. If they were not, please provide an explanation.**

None. As a temporary agency the CCRC was not required to and did not submit a performance plan. In FY21, the agency will explore adoption of a performance plan.

- 25. Please provide a copy of your agency's FY21 performance plan as submitted to the Office of the City Administrator.**

None. As a temporary agency the CCRC was not required to and did not submit a performance plan. In FY21, the agency will explore adoption of a performance plan.

- 26. Please describe any regulations promulgated by the agency in FY20 or FY21, to date, and the status of each.**

None.

- 27. Please provide the number of FOIA requests for FY20 and FY21, to date, that were submitted to your agency. Include the number granted, partially granted, denied, and pending. In addition, please provide the average response time, the estimated number of FTEs required to process requests, the estimated number of hours spent responding to these requests, and the cost of compliance.**

None.

- 28. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or for which the agency contracted during FY20 and FY21, to date.**

**Please state the status and purpose of each. Please submit a hard copy to the Committee if the study, research paper, report, or analysis is complete.**

All the following documents are completed, required reports per the agency's statute. They have previously been distributed to the full Council and are available on the Council's Legislative Information Management System (LIMS) or the agency's website, [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov).

- CCRC FY 2020 Fourth Quarter Report of Activities
- CCRC FY 2020 Third Quarter Report of Activities
- CCRC FY 2020 Second Quarter Report of Activities
- CCRC 2019 Annual Report and FY 2020 First Quarter Report of Activities

In addition, the following completed reports (containing reform recommendations) and memoranda (containing background materials relevant to reform recommendations) were issued to the agency's Advisory Group in FY20 and FY21. Please note that these memoranda include outside reports containing data analysis for which the agency contracted (see memoranda #28, 38, and 41). The title of the document indicates the topic / purpose of the report. The documents are available on the agency's website (and hardcopies are also available to the Committee upon request). These FY20 and FY21 (to date) reports total over 2000 pages.

<b>Report (Draft #)</b>	<b>Issued to Group</b>	<b>Comments Received</b>	<b>Title</b>
41 (1 <sup>st</sup> )	10/3/19	11/15/19	Ordinal Ranking of Maximum Imprisonment Penalties
42 (1 <sup>st</sup> )	11/20/19	1/15/20	Obscenity, Privacy, and Related Offenses
43 (1 <sup>st</sup> )	11/20/19	1/15/20	Blackmail
44 (1 <sup>st</sup> )	11/20/19	1/15/20	Trademark Counterfeiting
45 (1 <sup>st</sup> )	11/20/19	1/15/20	Fraudulent Advertising and Fraudulent Registration
46 (1 <sup>st</sup> )	11/20/19	1/15/20	Possession of an Open Container of Alcohol
47 (1 <sup>st</sup> )	11/20/19	1/15/20	Illegal Vending
48 (1 <sup>st</sup> )	11/20/19	1/15/20	Incest
49 (1 <sup>st</sup> )	11/20/19	1/15/20	Parental Kidnapping
50 (1 <sup>st</sup> )	2/19/20	5/1/20	Cumulative Update to the RCC Other than Chapter 6
41 (2 <sup>nd</sup> )	2/19/20	5/15/20	Ordinal Ranking of Maximum Imprisonment Penalties
51 (1 <sup>st</sup> )	2/25/20	5/15/20	Jury Demandable Offenses
52 (1 <sup>st</sup> )	3/20/20	5/15/20	Cumulative Update to the RCC Chapter 6
53 (1 <sup>st</sup> )	5/18/20	6/19/20	Pinkerton Liability
54 (1 <sup>st</sup> )	5/18/20	6/19/20	Prostitution and Related Statutes
55 (1 <sup>st</sup> )	5/18/20	6/19/20	Failure to Appear and Violation of Conditions of Release Offenses
56 (1 <sup>st</sup> )	5/18/20	6/19/20	Panhandling
57 (1 <sup>st</sup> )	5/18/20	6/19/20	Second Look
58 (1 <sup>st</sup> )	5/18/20	6/19/20	Developmental Incapacity Defense
59 (1 <sup>st</sup> )	5/18/20	6/19/20	Endangerment with a Firearm
19 (2 <sup>nd</sup> )	5/18/20	6/19/20	Homicide Offenses
27 (2 <sup>nd</sup> )	5/18/20	6/19/20	Human Trafficking and Related Statutes
35 (2 <sup>nd</sup> )	5/18/20	6/19/20	Cumulative Update to Sections 201 – 213 of the RCC
41 (3 <sup>rd</sup> )	5/18/20	6/19/20	Ordinal Ranking of Maximum Imprisonment Penalties
60 (1 <sup>st</sup> )	6/19/20	7/20/20	Execution of Public Duty, Lesser Harm, and Temporary Possession Defenses

61 (1 <sup>st</sup> )	6/19/20	7/20/20	Abuse of Government Power General Enhancement
62 (1 <sup>st</sup> )	6/19/20	7/20/20	Impersonation of a District Official
63 (1 <sup>st</sup> )	9/28/20	11/9/20	Misrepresentation as a District of Columbia Entity
64 (1 <sup>st</sup> )	9/28/20	11/9/20	Allowing Dogs To Go At Large
65 (1 <sup>st</sup> )	9/28/20	11/9/20	Contributing to the Delinquency of a Minor
66 (1 <sup>st</sup> )	9/28/20	11/9/20	Defense of Self, Others, or Property
67 (1 <sup>st</sup> )	9/28/20	11/9/20	Entrapment, Duress, and Mental Disease or Defect Defenses
68 (1 <sup>st</sup> )	12/24/20	1/29/21	December 2020 RCC Cumulative Update
69 (1 <sup>st</sup> )	1/15/21	2/15/21	Cumulative Update to Class Imprisonment Terms and Classification of RCC Offenses

<b>Memo</b>	<b>Issued</b>	<b>Title</b>
26	10/3/19	D.C. Code Statutory Penalties and Voluntary Sentencing Guidelines
27	10/10/19	Public Opinion Surveys on Ordinal Ranking of Offenses
28	10/21/19	Statistics on District Adult Criminal Charges and Convictions
29	11/20/19	Supplemental Materials to the First Draft of Report #42
30	2/19/20	Supplemental Materials to the First Draft of Report #50
31	2/25/20	Supplemental Materials to the First Draft of Report #51
32	3/20/20	Supplemental Materials to the First Draft of Report #52
33	5/18/20	Supplemental Materials to the First Draft of Report #53 and the Second Draft of Report #19
34	5/18/20	Supplemental Materials to the Second Draft of Report #27
35	5/18/20	Supplemental Materials to the Second Draft of Report #35
36	5/18/20	Supplemental Materials to the First Draft of Report #54
37	5/18/20	Supplemental Materials to the First Draft of Report #58
38	7/31/20	Statistics on District Adult Criminal Charges and Convictions
39	12/24/20	Supplemental Materials to the First Draft of Report #68
40	12/31/20	Statistics on District Adult Criminal Charges and Convictions
41	1/15/21	Supplemental Materials to the First Draft of Report #69

- 29. Please list in descending order the top 25 overtime earners in your agency in FY20 and FY21, to date, if applicable. For each, state the employee's name, position number, position title, program, activity, salary, fringe, and the aggregate amount of overtime pay earned. Please describe the process the agency uses to determine which employees are granted overtime.**

No overtime earners.

- 30. For FY20 and FY21, to date, please provide a list of employee bonuses or special pay granted that identifies the employee receiving the bonus or special pay, the amount received, and the reason for the bonus or special pay.**

None.

- 31. For FY20 and FY21, to date, please list each employee separated from the agency with separation pay. State the amount and number of weeks of pay. Also, for each, state the reason for the separation.**

None.

32. Please provide the name of each employee who was or is on administrative leave in FY20 and FY21, to date. In addition, for each employee identified, please provide: (1) their position; (2) a brief description of the reason they were placed on leave; (3) the dates they were/are on administrative leave; (4) whether the leave was/is paid or unpaid; and (5) their current status.

None.

33. Please provide each collective bargaining agreement that is currently in effect for agency employees. Include the bargaining unit and the duration of each agreement. Note if the agency is currently in bargaining and its anticipated completion.

None.

34. If there are any boards, commissions, or task forces associated with your agency, please provide a chart listing the names, number of years served, agency affiliation, and attendance of each member. Include any vacancies. Please also attach agendas and minutes of each board, commission, or task force meeting in FY20 or FY21, to date, if minutes were prepared. Please inform the Committee if the board, commission, or task force did not convene during any month.

The Criminal Code Revision Advisory Group (Advisory Group) is a statutorily designated group of stakeholders who review and provide information and suggestions on proposals prepared by the CCRC. The Advisory Group consists of 5 voting members and 2 nonvoting members. There are no vacancies.

Name	Confirmation / Appointment Date or Start of Appointment	Term	FY20 & FY21 To Date Meeting Attendance
Donald Braman	10/18/16 - Appointed by Council	10/1/16 -	16/16
Paul Butler	10/18/16 – Appointed by Council	10/1/16 -	7/16
Elana Suttenger	10/1/16 - Designee of the United States Attorney for the District of Columbia	NA	16/16

Laura Hankins	10/1/16 - Designee of the Director of the Public Defender Service for the District of Columbia	NA	16/16
Dave Rosenthal	10/1/16 - Designee of the Attorney General for the District of Columbia	NA	15/16
Helder Gil	10/1/16 - Designee of the Deputy Mayor for Public Safety and Justice	NA	0/16
Kevin Whitfield	2/25/18 - Designee of the Chairperson of the Council Committee on the Judiciary and Public Safety (Prior designees in place since 10/1/16)	NA	12/16

The Advisory Group did not meet in April 2020 at the onset of the public health emergency. Copies of the agendas and minutes of all Advisory Group meetings are posted on the agency's website at <https://ccrc.dc.gov/page/ccrc-advisory-group> and are attached as Appendix A (CCRC Advisory Group Agendas and Minutes FY20 and FY21 (To Date)).

**35. Please list all reports or reporting currently required of the agency in the District of Columbia Code or Municipal Regulations. Provide a description of whether the agency is in compliance with these requirements, and if not, why not (e.g. the purpose behind the requirement is moot, etc.).**

The CCRC is statutorily required to provide recommendations for comprehensive criminal code reform to the Council and the Mayor in the form of a report (or reports) by March 31, 2021. In partial fulfillment of this mandate, on May 5, 2017, the CCRC issued to the Council and Mayor *Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes*. An additional report with the agency's recommendations to-date is planned for issuance on or by March 31, 2021.

The CCRC also is statutorily required to provide *drafts* of its recommended reforms to criminal statutes to the Advisory Group in the form of reports. The agency has complied with this requirement and posted all draft reports circulated to the Advisory Group on the agency's website, [www.ccrcc.dc.gov](http://www.ccrcc.dc.gov).

The CCRC is also required to submit quarterly and annual reports on its activities to the Council. The agency currently is in compliance with the deadlines for these reporting requirements. This quarter the agency will issue its report for the prior quarter ended December 31, 2020 and its annual report for 2020.

- 36. Please provide a list of any additional training or continuing education opportunities made available to agency employees. For each additional training or continuing education program, please provide the subject of the training, the names of the trainers, and the number of agency employees that were trained.**

The CCRC staff receives training through a variety of standard classes provided by DCHR (e.g., cybersecurity, use of the District Purchase Card, ethics, sexual harassment awareness, etc.). On an ad hoc basis, staff are provided the opportunity to use work time to attend relevant D.C. Bar and community events for training and educational purposes.

- 37. Please describe any initiatives that the agency implemented in FY20 or FY21, to date, to improve the internal operations of the agency or the interaction of the agency with outside parties. Please describe the results, or expected results, of each initiative.**

In FY20 and FY21 to date, the agency has not initiated new improvements to internal operations other than changes necessitated by the public health emergency—changing regular meeting schedules, moving to all-digital document production, and using new online document and communication platforms.

- 38. What are the agency's top five priorities? Please explain how the agency expects to address these priorities in the remainder of FY21. How did the agency address its top priorities listed for this question last year?**

Priority #1: Finalize and submit code reform recommendations by the statutory deadline of March 31, 2021. The top priority for the year is completing work on its package of reform recommendations for the Council and Mayor. The recommendations consist of new statutory language (including penalties), a legal commentary detailing the statutory language's meaning and changes to District law; and supplementary materials that include analysis of court statistics and other jurisdiction examples. The recommendations constitute the first comprehensive review and reform proposal for District criminal statutes since the laws were initially codified by Congress in 1901.

Priority #2: Issue educational materials and engage in communications outreach related to the March 31, 2021 code reform recommendations. The second priority for the year is to develop materials and conduct outreach in support of the March 31, 2021 recommendations. The recommendations are sweeping in scope and level of detail, and, to date, the agency has not produced summaries of key changes or explanations suitable for the public. In the reform package, the legal commentary accompanying the new statutory language is structured as a reference document and is over 2,000 pages. While the agency, throughout the development process, has posted its draft language on its website and solicited public input, to date, the agency has not conducted affirmative outreach to relevant organizations and the public generally. The agency will develop educational materials and engage in outreach in conjunction with its new public relations/communications contractor, the Justice Policy Institute. (Note: the timing and extent of agency action under this priority will depend significantly on whether the recommendations are advanced in Council legislation.)



Priority #3: Issue supplemental code reform recommendations regarding criminal statutes not addressed in the March 31, 2021 code reform recommendations. The third priority for the year is to address the most important statutes in the agency's work plan for which reform recommendations were not completed by March 31, 2021 (e.g. obstruction of justice and terrorism). As described in response to question #53, below, the agency expects to invite current Advisory Group members to continue providing written and oral comments on future draft reform recommendations on an informal basis. The main difference in future operation would be the lack of procedural formalities specified in D.C. Code § 3-153. The agency will follow the priorities in the agency's work plan.

Priority #4: Research possible reforms to criminal statutes in Titles 23 and 24 of the D.C. Code.<sup>1</sup> The fourth priority for the year ahead is to develop reform recommendations regarding statutory provisions in titles of the D.C. Code concerned with various criminal procedure, sentencing, and incarceration provisions. Many of these statutes have not been significantly reviewed or revisited in nearly 50 years, since the beginning of home rule (if not earlier). The agency will solicit community and expert views and identify models regarding sentencing and procedure to develop a list of possible reform priorities. The agency will then conduct initial research on these priorities and issue a written assessment of statutes for possible reform.

Priority #5: Review and take measure to improve staff training and hiring/retention. The agency's final push to release its March 31, 2021 reform recommendations, in concert with the difficulties of the Covid-19 public health emergency, have been difficult for staff. Training has been suspended, vacations delayed, planning postponed. At a time when the agency is turning the corner to a different mission as a permanent agency, the agency needs to reprioritize making sure that staff have the time and opportunity to thrive in the workplace. The agency will provide time and limited funding for external trainings (remote or, health restrictions permitting, in-person), encourage employees to utilize accrued vacation time, and engage in staff-wide planning sessions regarding future agency priorities. The agency is also now hiring for a vacancy.

In FY20, the agency's top five priorities were premised on the need to wrap up its reform recommendations by September 30, 2020.

Two of the FY20 priorities<sup>2</sup> addressed finalization of the code reform recommendations as they then existed. That work was partially completed in FY20 and partially extended into these first 6 months of FY21.

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<sup>1</sup> Other titles with related provisions may also be examined. For instance, D.C. Code § 5-335.01 specifies the District's "post-and-forfeit" procedure, which is related to the field arrest provisions in D.C. Code §23-584.

<sup>2</sup> Priority #1: Finalize all CCRC reform recommendations for statutory language to date, reconciling Advisory Group comments with each other and statutory mandate. Priority #2: Finalize all CCRC penalty reform recommendations for all offenses revised to date.

Two of the FY20 priorities pertained to development of additional reform recommendations for certain offenses and defenses.<sup>3</sup> This work was completed except as to obstruction of justice offenses (instead additional work on several defenses was conducted).

The last FY20 priority was the development of summaries of the then-extant code reform recommendations.<sup>4</sup> Work on this priority was postponed and has not been completed to date in FY21.

**39. Please list each new program implemented by the agency during FY20 and FY21, to date. For each initiative, please provide:**

- a. A description of the initiative;**
- b. The funding required to implement the initiative; and**
- c. Any documented results of the initiative.**

None. The agency consists of one program.

**40. How does the agency measure programmatic success? Please discuss any changes to outcomes measurement in FY20 and FY21, to date.**

The agency evaluates operational success by measuring its development of recommendations for changes to criminal statutes according to the CCRC's statutory goals, the production of well-researched supporting commentary and relevant statistics, and responsiveness to Advisory Group and any District or public queries. While the agency tracks the number of statutes for which it has developed draft reform recommendations, and the number of draft reports issued to its Advisory Group, the qualitative aspects of the agency's work (e.g., complexity of legal analysis involved and degree of improvement to the D.C. Code's clarity) are extremely difficult to measure.

The CCRC does not have a performance plan or performance measures and the Office of the City Administrator has not required the agency to submit a performance plan.

**41. What are the top metrics and KPIs regularly used by the agency to evaluate its operations? Please be specific about which data points are monitored by the agency.**

See response to Question #40, above.

**42. Please identify whether, and if so, in what way, the agency engaged The Lab @ DC in FY20 or FY21, to date.**

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<sup>3</sup> Priority #4: Develop and issue recommendations for additional general justification defenses. Priority #5: Develop and issue recommendations for revision of District obstruction of justice, bail reform act violations, and prostitution-type offenses and related provisions.

<sup>4</sup> Priority #3: Develop and issue summaries of CCRC recommendations.

The CCRC engaged minimally with The Lab @ DC in FY20 and in FY21 to date. The extent of interaction in this timeframe was that the agency discussed with The Lab @ DC the options and feasibility for engaging a social science researcher in the summer of 2020 to perform a literature review that would aid the agency's work. Due to the delay in making the inquiry (due to agency funding uncertainty) and administrative delays in academic institutions' approval processes, an appropriate researcher or partner institution was not identified to use FY20 funds. Regarding statistical analysis, The Lab @ DC previously recommended that the agency seek a private sector expert to perform the statistical analysis of DC Court data that The Lab had previously provided for the CCRC. The CCRC MOU with The Lab expired at the close of FY19 and has not been renewed since, upon mutual agreement.

**43. Please list the task forces and organizations of which the agency is a member.**

The Executive Director participates as a Liaison on behalf of the agency to the American Law Institute's Model Penal Code Sexual Assault Project.

**44. Please explain the impact on your agency of any federal legislation passed during FY20 and FY21, to date, which significantly affected agency operations.**

Under Congressional appropriations legislation, District expenditures to "enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance ..." remain prohibited.<sup>5</sup> The CCRC, in consultation with other authorities, has concluded that this appropriations provision does not restrict the CCRC from developing recommendations for changes to District controlled substance crimes or penalties. However, this appropriations provision would prevent full Council enactment of any CCRC recommendations to change drug offense penalties—if the Congressional funding provision is still in place at that time. On its face, the appropriations provision does not prohibit changes to statutory definitions for drug offenses, changes relating to drug paraphernalia, or changes regarding possession of a weapon in connection with a drug offense.

**45. Please describe any steps the agency took in FY20 and FY21, to date, to improve the transparency of agency operations, including any website upgrades or major revisions.**

In FY20, the agency reorganized and updated its website to improve transparency. All draft criminal code reform recommendations are posted on the website.

**46. Please identify all electronic databases maintained by your agency, including the following:**

- a. A detailed description of the information tracked within each system;
- b. The age of the system and any discussion of substantial upgrades that have been made or are planned to the system; and

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<sup>5</sup> Section 809 of 113 P.L. 235.

- c. **Whether the public can be granted access to all or part of each system.**

No electronic databases are maintained.

- 47. Please provide a detailed description of any new technology acquired in FY20 and FY21, to date, including the cost, where it is used, and what it does. Please explain if there have been any issues with implementation.**

The CCRC purchased three new laptop computers and one printer in FY20 for a total of \$5,328. Software was purchased for \$475.94. The technology was provided to agency staff to facilitate their teleworking during the pandemic. No other technology expenditures have been made.

#### Agency-Specific Questions

- 48. Please discuss how the public health emergency related to COVID-19 affected agency operations during FY20 and FY21, to date.**

The primary impacts of the public health emergency have been on staff leave, efficiency, and morale. Most agency staff have young children and have had to take substantial leave to provide childcare. The end of in-person discussions and social interaction has also negatively affected productivity and enthusiasm for the work.

- 49. Please provide an update on the CCRC's progress towards its statutory mandate of issuing criminal code reform recommendations by March 31, 2021. Please include the agency's current work plan and schedule.**

At present the CCRC staff is drafting the final draft of all recommendations for submission to the agency Advisory Group. On January 29<sup>th</sup> staff received approximately 50 pages of comments from its Advisory Group on the penultimate draft of all provisions other than penalty matters. Additional comments on penalty matters are due February 15. An Advisory Group vote is planned for March 24, 2021.

By its statutory deadline of March 31, 2021 the agency will submit to the Council and Mayor a report containing its final reform recommendations. The report will consist of: 1) statutory text for a new Title 22 and other D.C. Code offenses, comprised of a general part (providing common definitions and rules of liability applicable to revised offenses) and a new special part (consisting of nearly 300 offenses and gradations); 2) a detailed legal commentary explaining how and why the revisions change current District law; 3) an appendix providing a copy of all Advisory Group written comments on the drafts and final versions of recommendations; and 4) appendices providing statistical information on charging and sentencing, practices in other jurisdictions, and other background information. Collectively, the revised statutes address crimes that in recent years have accounted for over 97% of all convictions. Equally as important, the revised statutes address a wide range of definitions, defenses, and penalties and sentencing provisions.

For more details of how the CCRC has worked to meet its statutory mandate to date, as well as future criminal statutes in line for review and reform, please see the agency's current Work Plan, attached as Appendix B.

**50. Please discuss any anticipated changes to the CCRC's operations after submission of the agency's criminal code reform recommendations.**

Consistent with the agency priorities described above (question #38), after the March 31, 2021 submission of the agency's reform recommendations, agency operations will pivot to pursue four goals:

- A. Develop supporting educational materials, conduct outreach, and provide legislative support as needed to move the reform recommendations into legislation;
- B. Develop and issue, with informal input from the agency's Advisory Group (see response to question #53b, below), supplementary recommendations for reform of offenses that will not be included in the March package;
- C. Research reform recommendations for criminal procedure, sentencing, and incarceration provisions in Titles 23 and 24 of the D.C. Code; and
- D. Engage in agency training and planning as the agency transitions to a new mission as a permanent agency.

The allocation of staff time among these goals will depend heavily on whether and when the agency's March 2021 reform recommendations receive legislative consideration. Also, the agency will continue to monitor other Council legislative proposals and provide testimony where the agency's expertise is relevant.

**51. The Fiscal Year 2021 Budget Support Act of 2020 (D.C. Law 23-149; 67 DCR 14601) made the CCRC a permanent agency and expanded its mandate to include providing "a legal or policy analysis of proposed legislation or best practices concerning criminal offenses, procedures, or reforms, including information on existing District law, the laws of other jurisdictions, and model legislation." In that vein, what projects or initiatives will the agency undertake after submission of the agency's criminal code reform recommendations?**

As described above (see questions #38, 50), the agency's first priority will be providing further support of and supplemental recommendations (covering additional offenses) to its own March 2021 recommendations.

However, in addition, the CCRC plans to begin a review of criminal procedure, sentencing, and incarceration provisions currently in Titles 23 and 24 of the D.C. Code. The agency's March 2021 recommendations already will address just a few statutory sections in these titles (e.g., regarding second look procedures and allowable "back up" time in D.C. Code §§ 24-403.01 and 24-403.03). Many of these statutory provisions are outdated, do not reflect recent case law, and have not been reassessed in light of recent best practices such as those recommended in the American Law Institute's recent sentencing recommendations for the Model Penal Code.

The CCRC will also explore other areas of District criminal law (including, e.g. criminal laws of a regulatory nature) that may be in need of reform.

**52. Has the agency encountered any programmatic or implementation challenges since the last performance oversight hearing? If so, please discuss how the agency plans to resolve these challenges.**

The primary programmatic or implementation challenge facing the agency continues to be the scale of the agency's mandate to provide comprehensive recommendations on revision of District criminal statutes. The D.C. Code contains, by CCRC estimates, at least 700 distinct criminal offenses. Reform of all these statutes is not feasible within the agency's statutorily-allotted timeframe with current staffing levels. Since its inception, the CCRC has prioritized reform of statutes that describe the most serious and frequently sentenced District crimes in order to use its resources to greatest effect. This pragmatic approach has guided the agency's development, to date, of draft reform recommendations for offenses that have accounted for over 97% of all adult felony and misdemeanor convictions in recent years. This is in addition to the many new criminal provisions and codification of certain general defenses that the CCRC will be recommending. To maximize the effectiveness of the agency's work, the agency's updated agency Work Plan and Schedule sequence in Appendix B, specifies groupings of offenses in need of review and an order of priority for review of those groups of offenses. Even after the CCRC issuance of its March 2021 recommendations, the agency expects to supplement those recommendations with additional reforms to offenses such as obstruction of justice and terrorism.

The second main programmatic or implementation challenge since the last hearing has been adjusting to full time teleworking and rearranging workflow for extended leave—all due to the public health emergency. The agency has few staff, so little ability to shift workloads due to unexpected absences. As described above (questions #38 and #48), most staff have had to take significant and unanticipated leave for childcare or health reasons due to the public health emergency. Overall, teleworking has worked out well after an initial adjustment period. However, the general stress experienced by all staff this past year due to the public health emergency (and other events) has also negatively impacted staff morale and productivity.

A third challenge since last year's oversight hearing has been adjusting the workflow of staff to address the continued uptick in the number of written comments on prior draft recommendations from one of the agency's Advisory Group members. Reviewing and, in many cases, incorporating the recommendations in these written comments has significantly increased the workload of staff beyond what was anticipated based on prior levels of Advisory Group written comments. The agency's work products benefit from this development, but it has significantly diverted staff resources from drafting new recommendations as had been planned.

**53. Please discuss the work of the Code Revision Advisory Group, including the number of meetings that have occurred in FY20 and FY21, to date.**

In FY20 and FY21, to date, the Advisory Group has received and reviewed (or is in the process of reviewing) literally over 2000 pages of legal research, statistical information, and draft statutory text—much of it new, other parts containing updates compared to prior drafts. In turn, the Advisory Group has given 289 pages of written comments to the agency during this time period. The workload is heavy and the material complex.

Per the CCRC’s procedures and the requirements of its statute, the Advisory Group has at least one month to provide written comments on each draft report containing possible criminal code reform recommendations. Since the third quarter of FY19 the representatives of the District of Columbia Attorney General, the United States Attorney for the District of Columbia, and the District of Columbia Public Defender Service have provided written comments on nearly every draft report circulated for review. Other Advisory Group members—including the representative of the Council’s Committee on the Judiciary and Public Safety—have not provided written comments in that timeframe. However, almost all voting Advisory Group members have provided oral comments on the CCRC’s work to some degree.

In FY20 and FY21, to date, there have been 16 meetings of the CCRC Advisory Group

**a. How many additional Advisory Group meetings does the CCRC anticipate holding in FY21?**

The Advisory Group currently has 2 additional meetings planned for FY21, on the following dates:

- Wednesday, March 3
- Wednesday, March 24

Additional meetings may be scheduled, as necessary, to facilitate issuance of additional CCRC recommendations after the March 31 submission of recommendations.

**b. How does the agency plan to engage with the Code Revision Advisory Group after submission of the agency’s criminal code reform recommendations?**

The Advisory Group was formed only to review and provide information and suggestions on the reform proposals that will be issued March 31, 2021. See D.C. Code §§ 3-152(a); 3-153. The agency’s statute does not specify any further purpose of the Advisory Group.

Nonetheless, the agency expects to invite current Advisory Group members to continue providing written and oral comments on future draft reform recommendations on an informal basis. The agency would submit draft statutory language, commentary, and background information to the members for their consideration and comments at the same time as the drafts are posted online for any public comment—the same as under current practice. After a reasonable review time, the agency would review the comments and amend its recommendations based on the comments—again, the same as under current practice. *Ad hoc*, in-

person group meetings may not be convened as the experience of the agency has been that such discussions are of limited value as compared to written comments. The main difference in future operation would be the lack of procedural formalities specified in D.C. Code § 3-153.

The CCRC has not discussed any such plans on future engagement with the Advisory Group, however, and it is unclear to what extent members may be willing or able to participate in future work. Notably, the two Council appointees to the Advisory Group—Professors Don Braman and Paul Butler—give significant time to the reform efforts and are not compensated, either directly or indirectly through their employment, for their time.

**54. Please list any Council hearings at which CCRC offered testimony in FY20 or FY21, to date.**

In addition to Council oversight hearings, the agency has provided the following testimony at Council hearings in FY20 or FY21 to-date:

- Oral and Written Testimony for the October 15, 2020 Hearing on B23-0723, the “Rioting Modernization Amendment Act of 2020” and B23-0882, the “Comprehensive Policing and Justice Reform Amendment Act of 2020”;
- Written Testimony for October 23, 2019 Hearing Testimony for the October 23, 2019 Hearing on Bill 23-0409 and Bill 23-0435, the “Sexual Orientation and Gender Identity Panic Defense Prohibition Act of 2019” and the “Tony Hunter and Bella Evangelista Panic Defense Prohibition Act of 2019”; and
- Written Testimony for the October 17, 2019 Hearing on B23-318, the “Community Safety and Health Amendment Act of 2019.”

**55. Please list any reports or analyses that the CCRC plans to release in the remainder of FY21.**

In the remainder of FY 21 the CCRC plans to issue the following reports or analyses:

- March 31 - Comprehensive Recommendations for Criminal Code Reform;
- Date TBD - Supplementary Recommendations for Criminal Code Reform addressing top priority statutes not part of the March 31 package, further described in the agency work plan (including reforms to, e.g., obstruction of justice and terrorism offenses);
- Date TBD - Analysis of Superior Court 2020 charging and sentencing data;
- Date TBD – Issue papers on social science research relevant to CCRC reform recommendations; and
- Date TBD – Summaries of CCRC reform recommendations suitable for layperson review.

**56. Please provide an update on any issues related to maintaining the CCRC’s office space in 441 4th Street, NW.**



The CCRC occupies one room in the basement level of the District office building at 441 4<sup>th</sup> St. NW. The location was previously used by contractors to the D.C. Sentencing and Criminal Code Reform Commission and reassigned to the CCRC by DGS at the start of its operation on October 1, 2016.

The CCRC does not have an MOU controlling its use of the space and does not reimburse DGS for use of the space. It is unclear whether the agency's continued use of the space is feasible if its operation be extended beyond FY21.

It should also be noted that the current lack of a second room or individual offices poses operational difficulties in a variety of ways—e.g., all meetings of the agency's Advisory Group, sensitive HR conversations, and needs for employee privacy (including breastfeeding) require relocation out of the agency's offices. The CCRC has relied upon the Citywide Conferencing Center and other building rooms for additional space, as needed.

The agency has been exclusively teleworking since the start of the public health emergency. Apart from the other difficulties posed by the emergency, teleworking has been largely successful and the agency will consider expanded teleworking when the emergency is over. Some regular in-person interactions and meeting space still will be necessary for the agency going forward, however, even with an expanded telework regime.

Given the nature of the agency's work and small size, a single office or a couple of desks in shared space and access to meeting rooms in the Wilson building may be optimal for the future.

# Appendix A



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, OCTOBER 2, 2019 AT 10:00 AM  
441 4<sup>TH</sup> STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, October 2, 2019 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11<sup>th</sup> Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments on Draft Reports:
  - (A) First Draft of Report #37, *Controlled Substance Offenses and Related Provisions*;
  - (B) First Draft of Report #38, *Enlistment of Minors & Maintaining Location to Manufacture Controlled Substances*;
  - (C) First Draft of Report #39, *Weapon Offenses and Related Provisions*; and
  - (D) First Draft of Report #40, *Self-Defense Sprays*.
- III. Adjournment.



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### MINUTES OF PUBLIC MEETING

**WEDNESDAY, OCTOBER 2, 2019, at 10:00 AM**

**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW  
WASHINGTON, D.C. 20001**

On Wednesday, October 2, 2019, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held in Room 1112 at 441 Fourth St., N.W., Washington, D.C. The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

Nathaniel Wenstrup (Attorney Advisor)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)

Katarina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia) (until 11:25 a.m.)

Elana Suttentberg (Visiting Attendee of Office of the United States Attorney for the District Columbia)

Stephen Rickard (Visiting Attendee of Office of the United States Attorney for the District of Columbia) (until 11:15 a.m.)

Dave Rosenthal (Designee of the D.C. Attorney General)

Don Braman (Council Appointee) (by phone) (until 11:30 a.m.)

Kevin Whitfield (Designee of the Chair of the D.C. Council Committee on the Judiciary and Public Safety)(by phone, from 10:20 a.m. to 11:30 a.m.)

## **I. Welcome and Announcements.**

- a. The Executive Director noted that the next meeting will be held on November 6, 2019.
- b. Tomorrow, the Commission will release the First Draft of Report #41 – Ordinal Ranking of Maximum Imprisonment Penalties.

- i. The Commission seeks comments on the ordinal rankings (what should be graded up or down). At this time, CCRC is seeking input on the relative distribution and spread, not on the maximum penalties for each class. Members may, but are not required to, comment on the penalty models listed at the top of the page.
- ii. CCRC will provide a PDF and Excel format, which will enable CRAG members to submit a revised spreadsheet, if they so choose. The files will include a second worksheet, organized by penalty.
- iii. PDS noted that the Sentencing Commission took a similar approach, requiring members to sort felony offenses into 10 boxes, without making recommendations about imprisonment time.
- iv. The Executive Directed noted that the Report is based on the current RCC offenses, although there may be future changes to offense elements and gradations. Members may, but are not required to, offer additional comments on the penalties assigned to hypothetical offenses and offense gradations
- v. CCRC also seeks comments on jury demandability recommendations as specified in the document.
- vi. CCRC notes that the Report includes nine felony classes, in contrast to the eight classes in a prior draft of the RCC's general part.
- vii. OAG asked whether other jurisdictions that have comprehensively revised their criminal codes have adopted a similar classification scheme.
  - 1. The Executive Director noted that the reform jurisdictions vary. Most have offense classifications. The models included in the Report align with many of the maximum penalties in current law. The CCRC's initial report on classification of penalties, issued two or three years ago, addresses these matters more.
- viii. USAO asked whether it may comment on whether an offense should be classified as a felony or a misdemeanor.
  - 1. The Executive Director confirmed that those comments are welcome, as well as more specific comments on which felony or misdemeanor class.
- ix. USAO asked whether the felony classifications are intended to correspond to the Master Group assignments in the Sentencing Guidelines.
  - 1. The Executive Director explained the penalty classes in the report do not correspond to Master Group assignments. The Sentencing Commission is tasked with developing the Guidelines. The CCRC will not make any recommendations about Guidelines.
- x. The Executive Director noted that the report recommends dollar value thresholds for the property offenses double (e.g., \$250 to \$500, \$2,500 to \$5,000).
  - 1. OAG asked whether CCRC is inviting comments on the dollar value thresholds themselves.

2. The Executive Director confirmed that comments on both the property value thresholds and the classification of those gradations are welcome.
- xi. CCRC will also provide, as background, a sortable spreadsheet of statutory maxima for current D.C. Code offenses, denoting which offenses have been revised and will be revised.
- xii. CCRC will also provide, as background, a sortable version of Appendix C from the Voluntary Sentencing Guidelines Manual.
- xiii. CCRC will also provide, via email to Advisory Group members, non-public court data about sentences imposed in recent years. The CCRC hopes to be able to send out a copy of the data that can be discussed in the Advisory Group meeting soon, but first needs to check with the Court.
- c. Tomorrow, CCRC will also release an updated compilation of RCC statutes, including the drug and weapon offenses, the updated property offense dollar value thresholds, jury demandability, and other formatting/typographical corrections.
- d. Next week, CCRC will provide the results of a series of surveys of D.C. voters, concerning public opinion of the relative severity of various types of conduct.
- e. The Executive Director noted recent correspondence from a District resident upset about certain criminal penalties and her experience with the criminal justice system. He said that, as the agency begins discussion of penalties, it is to be expected that there may be sharp disagreement, as there is among some members of the public. He expressed his hope that the agency's discussions would remain civil and respectful of the fact that reasonable people may strongly disagree about such matters.
- f. OAG asked when comments will be due.
  - i. The Executive Director noted that comments will be due in six weeks, or roughly in mid-November.
- g. OAG asked whether the report will be discussing minima.
  - i. The Executive Director noted that minima and absolute numbers for maxima will be discussed at a later time. First, the agency wants to establish a basic ordinal ranking of maxima.

## **II. The Advisory Group discussed the written comments on the First Draft of Report #37, Controlled Substance Offenses and Related Provisions:**

- a. Staff asked for clarification of USAO's comment about adding "quantity or mixture" for third degree trafficking.
  - i. USAO explained that it sometimes has to dismiss heroin, synthetic marijuana and, perhaps, other cases, based on DCCA precedent. USAO noted that the current controlled substance schedules specifically include mixtures or compounds containing cocaine, ecognine, methamphetamine, phenmetrazine, and phencyclidine. However, the schedules do not explicitly include mixtures or compounds containing opium poppy, poppy straw, or opium. Therefore, under current DCCA case law, a measurable amount of a mixture containing any amount of cocaine, ecognine, etc. constitutes a controlled substance. However, a measurable amount of a mixture containing trace amounts of opium is *not* sufficient for controlled substance offenses.

- ii. USAO noted that adding the “compound or mixture” language with respect to opium, opium poppy, or poppy straw would change current District law.
- b. Staff asked for clarification of USAO’s comment about striking “in furtherance of” from the while armed enhancement. Staff asked whether there would be any situations in which a person carried or had readily available a firearm that had no relationship at all to trafficking of a controlled substance, in which the penalty enhancement should not apply.
  - i. USAO explained that the presence of the gun during a drug crime adds a risk of danger and raised concerns about the government’s ability to prove that the gun was used in furtherance of a crime.
  - ii. Staff noted that the government is required to prove the gun was used “in furtherance of” a crime under federal law.
  - iii. USAO responded that federal law alternatively allows the government to prove that the gun was used or carried.
  - iv. PDS asked USAO whether it would oppose requiring that the person use or carry the weapon (excluding mere possession).
  - v. USAO stated that it prefers the government only have to prove that the weapon is readily available.
- c. The Advisory Group discussed the defense to trafficking of a controlled substance when a person gives away without receiving payment in return, or without any expectation of future financial gain.
  - i. OAG noted that, in some instances, there may be no observable exchange of drugs for remuneration but, nevertheless, there is an understanding that there will be an exchange later.
    - 1. USAO provided an example in which an officer occupying an observation post sees one dealer provide a large quantity of drugs from a car to a lower-level dealer on the street.
  - ii. Staff asked about OAG’s proposal to limit the defense. OAG had proposed that the defense only apply to distributions of quantities sufficient for a “single use.” Staff asked what would constitute a “single use.”
  - iii. OAG distinguished between an amount that is suitable for personal use (including by many people or by one person over an extended period of time) and an amount that is suitable for a “single use” by one person. OAG noted that it did not have a specific quantity in mind, but said that there should be some reasonable limit to the quantity of controlled substance subject to the defense.
  - iv. PDS said that it would augment its written comments with a recommendation that the offense include as an element (not as a defense) that person *expects* to receive financial gain.
  - v. USAO noted that its objections are based on the challenges they would face proving cases at trial and not to the theoretical underpinnings of the defense definition. For example, allowing a defense for someone who gives drugs to a friend at a party may enable every defendant in a

trafficking case to disingenuously claim that they were planning to give away their stockpile of drugs to friends for free.

1. PDS responded that, although it is important to consider how cases will be proved at trial, that should not be the foremost consideration when determining what conduct should constitute a crime.
  2. The Executive Director noted that, in such a case, the mere possession of a stockpile of drugs is criminal under the RCC, even in cases where trafficking cannot be proven.
  3. A USAO representative stated that giving someone a line of cocaine at a party is substantively more serious than possessing it for yourself only.
- vi. PDS offered a hypothetical in which a person provides many doses of a drug for attendees of a party to personally use and enjoy together.
  - vii. OAG stated that such a person should not have the benefit of the defense that the distribution was not for monetary remuneration. That defense should be reserved for scenarios in which a person shares a single use with another individual.
  - viii. Staff invited the group to share any case law or other legal authority that succinctly articulates the “single use” quantity as defined by OAG.
- d. Staff noted that USAO’s written comments objecting to decriminalizing possession of paraphernalia for purposes other than manufacturing specifically addressed paraphernalia for distribution, but not for personal use. Staff asked USAO whether it opposes decriminalizing possession of pipes and other items used for the ingestion of drugs.
- i. USAO did not take an official position with respect to decriminalization, but did note that possession of a pipe is much less serious than possession of zips and a scale.
  - ii. USAO also noted that its opposition to decriminalization of paraphernalia is not ranked as highly in its hierarchy of comments.
- e. Staff asked OAG about its recommendation to define first degree possession of a controlled substance as possession of any schedule I or II substance. Staff asked whether there are any specific substances that would be improperly penalized under the RCC draft recommendation.
- i. OAG explained that, given that Schedule I drugs have been determined to be (and defined to be) the most dangerous, it is illogical to exclude some of them from first degree liability solely because they are not also defined to be abusive and narcotic. OAG recommends a change in District law.
  - ii. Staff noted that grading the offense could lead to unexpected results. For example, psilocybin is a Schedule I drug, whereas methamphetamine is in Schedule II. Under OAG’s proposal, possession of both substances would be subject to the same penalties. Staff asked for a more detailed recommendation about which specific substances should be graded as first degree.
  - iii. OAG noted that it is reviewing changes to how each schedule is defined.



- f. PDS highlighted a significant racial disparity in prosecutions of drug crimes. PDS stated that it is fair and important to think about writing drug offenses in a way that limits the opportunity for racist enforcement of the law. PDS cited to the Council hearings concerning decriminalization of marijuana and noted that the same racial justice arguments apply to other drug offenses.
  - i. The Executive Director noted that when court data is shared with the Advisory Group, it will include demographic data such as the race of the defendants.
- g. Staff asked OAG whether it would oppose amending the trafficking of drug paraphernalia offense to only apply to paraphernalia for manufacturing controlled substances.
  - i. OAG said that the recommendation should be consistent. If selling paraphernalia used for distributing or ingesting controlled substances should be criminalized, possession of such paraphernalia should also be criminalized.
  - ii. OAG explained that, foremost, the commentary should explain the discrepancy between sales and possession. Secondly, OAG's recommendation is to make the two types of conduct equally legal.
  - iii. PDS asked why ingestion paraphernalia is regarded as dangerous, absent the presence of drugs. PDS noted that many objects, such as syringes and bowls, have other legitimate uses.
  - iv. Staff noted that criminalizing ingestion paraphernalia enables a law enforcement officer to arrest a person they observed using drugs. For example, if a person injects themselves with a syringe, they have consumed the evidence of drug possession.
- h. Staff asked OAG about its recommendation to criminalize knowingly using a building, vehicle, or watercraft with the intent to manufacture methamphetamine therein. Staff asked whether the proposed offense would include using a building with the intent to manufacture methamphetamine there in the future.
  - i. OAG explained that running a meth lab poses dangers such as a risk of explosion and gases affecting neighbors.
  - ii. OAG said that its intent was to criminalize use of buildings where methamphetamine is actually being, or has been, manufactured.
- i. Staff asked PDS to clarify its recommendation about expanding D.C. Code § 48-904.01(e)(1) probation.
  - i. PDS said that, in addition to proposing that this disposition be available to people who have already been sentenced under it previously, it should also be available to people who were convicted of previous possessory offenses who did *not* receive a 904.01(e) sentence.
- j. Staff asked PDS to clarify whether its recommendation to change "public youth center" to "public recreation center" in the drug and weapon offenses was intended to be a substantive change or drafting point only.
  - i. PDS said that this recommendation is not intended to be a substantive change.
  - ii. USAO proposed also adding any "community center."

**III. The Advisory Group discussed the written comments on the First Draft of Report #39, Weapon Offenses and Related Provisions:**

- a. Staff noted an error in the commentary to RCC § 7-2502.01. It does not fully replace 7-2507.06 (Penalties). As reflected on page 5 of Memo #24, paragraph (a)(1) of the current statute, concerning firearm sales, is retained.
- b. Staff noted an error in the statutory language for RCC § 22E-4105(b)(2)(C)(i). This provision should include the word “and” at the end.
  - i. OAG indicated it will ask the Council representative about why having a firearm in violation of an Extreme Risk Protection Order was assigned its own penalty instead of added as a predicate for unlawful possession of a firearm under D.C. Code § 22-4503(a)(5).
  - ii. USAO noted that the current law does not include stay away/no contact orders.
    - 1. Staff noted that there is no clear indication from the legislative history as to why these orders were not included.
- c. Staff asked for clarification of OAG’s comment: “OAG notes that giving a jury trial right when it is not constitutionally required does not improve the consistency and proportionality of the revised code. Rather, depending on the penalty which is established, this paragraph would give a jury right when a person is charged with the attempt version of this offense and would not give a jury right to a person who is charged with a different offense that has the same incarceration exposure.”
  - i. OAG said it opposes expanding the right to jury trial where it is not required by the penalty or some clearly articulated legal or policy grounds.
  - ii. Staff encouraged Advisory Group members to include in comments on the First Draft of Report #41 any legal or policy principles that should be considered when deciding whether an offense should be jury demandable.

**IV. Adjournment.**

- a. The meeting was adjourned at 12:00 p.m.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, NOVEMBER 6, 2019 AT 10:00 AM  
441 4<sup>TH</sup> STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, November 6, 2019 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11<sup>th</sup> Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments on Draft Reports:
  - (A) First Draft of Report #39, *Weapon Offenses and Related Provisions*; and
  - (B) First Draft of Report #40, *Self-Defense Sprays*.
- III. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
  - (A) First Draft of Report #41, Ordinal Ranking of Maximum Imprisonment Penalties;
  - (B) Advisory Group Memorandum #26, D.C. Code Statutory Penalties and Voluntary Sentencing Guidelines; and
  - (C) Advisory Group Memorandum #27, Public Opinion Surveys on Ordinal Ranking of Offenses.
- IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrf.dc.gov](http://www.ccrf.dc.gov)

### MINUTES OF PUBLIC MEETING

**WEDNESDAY, NOVEMBER 6, 2019, at 10:00 AM**

**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW  
WASHINGTON, D.C. 20001**

On Wednesday, November 6, 2019, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held in Room 1112 at 441 Fourth St., N.W., Washington, D.C. The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

Nathaniel Wenstrup (Attorney Advisor)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of The Public Defender Service for the District of Columbia) (from 10:15 am)

Katerina Semyonova (Visiting Attendee of The Public Defender Service for the District of Columbia) (by phone)

Elana Suttentberg (Visiting Attendee of The Office of the United States Attorney for the District of Columbia)

Stephen Rickard (Visiting Attendee of The Office of the United States Attorney for the District of Columbia)

Dave Rosenthal (Designee of the D.C. Attorney General)

Don Braman (Council Appointee) (by phone until 11:00 am)

Kevin Whitfield (Designee of the D.C. Council Committee on the Judiciary and Public Safety)

**I. Welcome and Announcements.**

- a. The Executive Director thanked Attorney Advisor Nathaniel Wenstrup for his contributions to the Commission's work.
- b. The agency currently hiring a new attorney advisor and is actively looking for applicants.
- c. Comments on the First Draft of Report #41 are due November 15, 2019.
- d. The week of November 18, 2019, the Commission will issue another batch of reports with recommendations related to privacy, obscenity, pornography, and property. Comments will be due six or seven weeks thereafter, in early January (deadlines may be extended in the event of a lengthy government shutdown).
- e. The next meeting will be held on December 4, 2019. It will discuss comments on Report #41 and the forthcoming batch of reports.

**II. The Advisory Group discussed the written comments on the First Draft of Report #39, Weapon Offenses and Related Provisions and the First Draft of Report #40, Self-Defense Sprays:**

- a. The Executive Director noted that the agency is continuing to reexamine the Home Rule issues that were in the Advisory Group comments, particularly in light of a recent DCCA opinion.
- b. The group did not have any further comments on the weapons reports at this time.

**III. The Advisory Group discussed the First Draft of Report #41, Ordinal Ranking of Maximum Imprisonment Penalties:**

- a. The Executive Director noted the penalty recommendations are subject to change, as the offense elements are updated. At this time, the Commission aims to identify areas of agreement and concern with respect to the relative ordinal rankings before finalizing recommendations for statutory maxima. The Commission invites questions about how to understand the charts, court data, and survey data that were provided.
- b. USAO asked for clarification about Columns BD-BZ in Appendix D to Memo #28.
  - i. The Executive Director explained that Column BD represents the median length of prison sentences for adult convictions in the Superior Court of the District of Columbia. Column BH (the .975 quantile) is intended to roughly represent the high end of the prison sentences imposed. The highest quantile (1.0) appears to include a significant number of data entry errors. Many of the entries would amount to illegal sentences and may be the result of inputting years instead of months or entering enhancements incorrectly.
- c. USAO asked whether the maxima proposed in Report #41 correspond to the high end of the prison sentences imposed in the current court data.
  - i. The Executive Director said that court data is just one consideration that staff reviewed in developing the maxima proposed in Report #41.
  - ii. The Executive Director also explained that the RCC offenses, the basis of Report #41, typically do not have a one-to-one correspondence to offenses under current District law. Enhancements and offense elements differ. Moreover, there is a complex nest of other factors to consider, such as whether other offenses were also charged or dismissed, whether the sentence was run consecutive or concurrent to other sentences, and whether any mandatory minima applied.

- iii. The Executive Director encouraged Advisory Group members, in their review of Report #41, to consider particular fact patterns and how such patterns would be charged under the revised code, and what the seriousness the various charges carried. For example, depending on the fact pattern, what might be charged as a single count of burglary under current law and appear in court data may be charged as multiple, separate offenses under the RCC, together imposing liability equal to or greater than burglary under current law.
- d. USAO asked whether the court data reflects only the most serious charge in each case.
  - i. The Executive Director explained that the data reflects the sentence imposed for each individual charge.
  - ii. The Sentencing Commission has published other data, such as criminal history score, but only for felony offenses.
  - iii. Advisory Group members are encouraged to notify the CCRC of any apparent errors in the data. Notably, there may be multiple entries for the same offense. (Column C includes a macro-citation that may be helpful.)
- e. USAO asked whether the Commission is committed to having only a one-class increase between each grade of an individual offense.
  - i. The Executive Director explained that the Commission welcomes recommendations that include larger spans between the degrees of an offense, and noted that some of the ordinal rankings in Report #41 do this.
  - ii. OAG noted that it may also recommend that some offenses include a different number of degrees, to make them more proportionate with other offenses.
- f. The Executive Director encouraged Advisory Group members to include in their comments the concern or policy rationale that underlies each comment, so that it is easier to fashion a remedy that addresses all members' concerns at once.
  - i. The Council representative noted that it will be most helpful for the Council to see positions on ordinal rankings before seeing positions as to absolute numbers.
- g. USAO noted that some of the current sentencing data may be artificially inflated by plea negotiations. It offered an example in which a person who is eligible for a repeat enhancement in a burglary case is permitted to plead guilty without the enhancement or to plead to an attempt. In such a case, the sentence may be higher than usual, to account for the defendant's criminal history.
  - i. The Executive Director noted that there appears to be very little use of the repeat offender enhancement per the court data, or of the senior/minor victim enhancement, and virtually no use of other enhancements that are available under current District law. It may be that enhancements are charged more frequently under the revised code.
  - ii. The Executive Director anticipates differing policy positions as to whether the use of enhancements (of a single class, multiple classes, or a fixed term of years) is appropriate. In some cases, enhancements may "double-count" a person's culpability and exacerbate disparities.
- h. OAG asked for more clarification on the design of the public surveys. For example, how were the milestone offenses (e.g., intentional killing, serious injury) selected?

- i. The Executive Director explained the District worked with a group at George Washington University to design the survey, and it follows the basic model used in some other jurisdictions. The vendor, YouGov, uses a panel system controlling for D.C. demographics, as opposed to cold calling and soliciting input. For web-based surveys, this approach is considered the gold standard; it has outperformed Pew in terms of accuracy. Background materials on the Yougov methodology were distributed to the Advisory Group.
  - ii. Milestones map onto offenses in current District law with which Advisory Group members and other stakeholders are already familiar (e.g., murder, manslaughter, aggravated assault, felony assault, simple assault). However, survey respondents were not informed of that fact.
  - iii. The survey is a rough tool and measures only relative (not absolute) severity. The tests were conducted at different times with different panels of respondents, all of whom are registered voters. There are some extreme outlier responses (e.g., ranking possession of an open container of alcohol as equivalent to homicide) and other noise in the system. The mean average is not always the most accurate measure to use as a statistical matter, and the median or mode is the better indicator of central tendency for ratings near the bottom or top of the ratings.
- i. USAO asked whether District statutes governing backup time will remain in place. For example, under current law, a five-year statutory max effectively amounts to a maximum of three years imposed upfront, with two years of supervised release.
  - i. The Executive Director said that the Commission has no current plans to issue any recommendations to revise statutes concerning backup time.
  - ii. The Executive Director said that this is one of many factors that makes it especially difficult to compare statutory maxima from other jurisdictions. Offense definitions, guidelines, and parole systems vary greatly from state to state. The time served and time imposed may be more accurate measures.
- j. The Executive Director invited input as to what other information may be helpful (e.g., court data on sentencing judges) in assessing penalty proportionality.
- k. PDS asked whether any other group members found the data surprising.
  - i. The Council representative noted that the survey results with regard to felony murder were higher than some academic experts appear to recommend.
  - ii. The Executive Director noted that many aspects of the survey data are notable. For example, causing a moderate injury with a firearm was ranked as more serious than causing a serious injury without a weapon, indicating the effect of a weapon's use. Burglary without committing an additional offense inside was ranked quite low, but burglary combined with a serious offense was ranked higher.
- l. USAO asked about whether the data reflects the sentence that was imposed even if execution of some or part of the sentence is suspended.

- i. The Executive Director explained that the spreadsheet can be expanded to show additional columns, which indicate how much of the sentence was suspended.
- ii. The data concern the initial (first in time) sentence and does not show whether the suspended time was imposed later, after revocation of probation.

**IV. Adjournment.**

- a. The meeting was adjourned at 11:30 am.





**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, DECEMBER 4, 2019 AT 10:00 AM  
441 4<sup>TH</sup> STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, December 4, 2019 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11<sup>th</sup> Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments on First Draft of Report #41, *Ordinal Ranking of Maximum Imprisonment Penalties*.
- III. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
  - (A) Advisory Group Memorandum #26, *D.C. Code Statutory Penalties and Voluntary Sentencing Guidelines*; and
  - (B) Advisory Group Memorandum #27, *Public Opinion Surveys on Ordinal Ranking of Offenses*;
  - (C) Advisory Group Memorandum #28, *Statistics on District Adult Criminal Charges and Convictions*;
  - (D) First Draft of Report #42, *Obscenity, Privacy, and Related Offenses*;
  - (E) Advisory Group Memorandum #29, *Supplemental Materials to First Draft of Report #42*;
  - (F) First Draft of Report #43, *Blackmail*
  - (G) First Draft of Report #44, *Trademark Counterfeiting*
  - (H) First Draft of Report #45, *Fraudulent Advertising and Fraudulent Registration*
  - (I) First Draft of Report #46, *Possession of an Open Container of Alcohol*
  - (J) First Draft of Report #47, *Illegal Vending*
  - (K) First Draft of Report #48, *Incest*
  - (L) First Draft of Report #49, *Parental Kidnapping*
- IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### MINUTES OF PUBLIC MEETING

**WEDNESDAY, DECEMBER 4, 2019, at 10:00 AM**

**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW  
WASHINGTON, D.C. 20001**

On Wednesday, December 4, 2019, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held in Room 1112 at 441 Fourth St., N.W., Washington, D.C. The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

Kelsey Townsend (Legal Fellow)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of  
The Public Defender Service for the  
District of Columbia)

Katerina Semyonova (Visiting Attendee of  
The Public Defender Service for the  
District of Columbia) (by phone)

Elana Suttenger (Visiting Attendee of  
The Office of the United States Attorney  
for the District of Columbia)

Kevin Whitfield (Designee of the D.C.  
Council Committee on the Judiciary and  
Public Safety)

Dave Rosenthal (Designee of the  
District of Columbia Attorney General)

Paul Butler (Council Appointee)  
(by phone)

Don Braman (Council Appointee)

## **I. Welcome and Announcements.**

- a. The Executive Director noted the next Advisory Group meeting will be held on January 8, 2020.
- b. The deadline for written comments on materials currently under review is January 15, 2020. This deadline may be extended by one week to accommodate the holidays and any government shutdown. The Executive Director will email about any extensions.
- c. The CCRC is currently working on a cumulative update to all recommendations, planned to be issued in February 2020. As with the last cumulative update, it will include a catalog of responses to each of the written Advisory Group comments.
- d. The CCRC anticipates completing a voting draft of the RCC in 2020.

## **II. The Advisory Group discussed the First Draft of Report #41, Ordinal Ranking of Maximum Imprisonment Penalties:**

- a. The Advisory Group discussed the relative severity of sex offenses.
  - i. In its written comments, OAG recommended increasing the penalty for nonconsensual sexual conduct.<sup>1</sup> OAG noted that arranging for sexual conduct with minor<sup>2</sup> is graded higher, even though it is an inchoate offense.
  - ii. The Executive Director explained that the revised nonconsensual sexual conduct offense replaces a 180-day misdemeanor in current law that broadly encompasses more serious conduct such as enticing, sex abuse, and sex abuse of a minor that is also separately criminalized with heightened penalties. Like the current misdemeanor sexual abuse statute in current law, the revised nonconsensual sexual conduct is similar to a lesser included offense, but the revised nonconsensual sexual conduct offense increases the penalty for first degree (involving a sexual act) to a felony.
  - iii. Ms. Suttenger explained that the current misdemeanor sex abuse offense is often charged in what is colloquially termed “butt-grab” cases, where it is difficult to prove use of force sufficient to overcome. It also functions as an attractive plea-down option for offenses that would otherwise require sex offender registration.<sup>3</sup> Ms. Suttenger stated that USAO prefers to retain a non-jury demandable misdemeanor sex offense, to preserve prosecutorial and judicial resources.
- b. The Advisory Group discussed jury demandability.
  - i. The Executive Director noted that the written comments recommend three rather different approaches to jury demandability:
    1. PDS recommended making all offenses that are punishable by incarceration jury demandable, just as they would be for a person who is facing immigration consequences.<sup>4</sup> PDS’s recommendation

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<sup>1</sup> RCC § 22E-1307; currently classified as a Class 9 felony for first degree and a Class A misdemeanor for second degree.

<sup>2</sup> RCC § 22E-1306; currently classified as a Class 8 felony.

<sup>3</sup> Misdemeanor sex abuse against requires registration only if the complainant is a minor.

<sup>4</sup> *Bado v. United States*, 186 A.3d 1243 (D.C. 2018).

- noted that defendants may not want to disclose their immigration status in court.
2. OAG recommended drawing a bright line based on maximum penalty: all offenses punishable as Class A or B misdemeanors are jury demandable and all (completed or inchoate) offenses that are punishable as Class C, D, or E misdemeanors are not.
  3. USAO recommended not expanding the right to a jury trial beyond what is currently authorized by current law.
- ii. The group discussed the impact of providing jury trials in all cases on the efficiency of the criminal justice system.
1. The Executive Director noted that the District is in a minority nationally in not providing jury trials in all crimes involving incarceration. Fewer than a dozen jurisdictions are in this group and several of those afford juries in more circumstances than the District.
  2. Ms. Suttenger stated that it takes parties longer to prepare for a jury trial and noted that some misdemeanor calendars, such as domestic violence calendars, have four trials scheduled per day.
  3. Ms. Semyonova stated that the delay is a function of the indictment clock. Citing the *Ugast* opinion, she disagreed with the assertion that jury trials would overburden the system or the jury pool. Katya Semyonova also stated that the trial call is improperly used as a case screening tool in misdemeanor courtrooms.
  4. Mr. Rosenthal noted that providing a jury trial in minor cases, such as a mass arrest of hundreds of protestors, may interrupt felony calendars, adversely impacting the defendants and victims who are awaiting trial in those more serious cases.
  5. Mr. Whitfield stated that it is important to fund the system at a level that allows the full process to take place and cautioned against removing process due to financial considerations. The representative explained that when resources are lacking, it should inform prosecutorial priorities but not affect the rights of defendants.
  6. Professor Butler stated that efficiency is not most relevant consideration, noting democracy is expensive. Professor Butler also noted that when he was a Special AUSA, there were nine or ten misdemeanor jury trials per calendar per day without difficulty.
  7. Professor Braman explained that there are many ways to increase efficiency. For example, some jurisdictions require officers to call and clear with the prosecutors before making an arrest. This approach reduces number of arrests and the number of no papered cases. It also educates police officers about what is and is not arrestable, reducing officers' frustration. Professor Braman also stated that the CCRC's mandate is not to make the system more efficient but to make it more fair.
- iii. The group discussed the impact of providing jury trials on due process.

1. Professor Butler, citing to the concurring opinion in *Bado v. United States*, characterized the current system of denying jury trials in misdemeanor cases as dreadful and anti-democratic. Professor Butler emphasized the importance of the perception of fairness, noting that it was very important to him as a defendant in criminal case to know that he had the same rights as similar-situated people in other jurisdictions.
  2. Mr. Whitfield expressed concern about the denial of the right to a jury trial corrupting the core analysis when fashioning penalties, which should be the nature of the conduct and culpability. The representative also explained that the charging decision process should be based on evidence and not gaming the system to make it easier to secure a conviction. The representative noted that North Carolina allows an immediate right to a new trial by a jury if a defendant is found guilty after a bench trial. In South Carolina (which permits nonlawyers to serve as judges), a defendant is entitled to a jury trial for any offense that carries jail time.
  3. Mr. Rosenthal stated that he did not think court statistics necessarily support the commonly-held belief that juries are more likely to acquit than judges.
  4. The Executive Director said that conflating factors (such as plea bargaining and evidentiary issues) make court statistics an unreliable indicator of the probability of success at trial.
- iv. The Executive Director asked the group to specify any relevant considerations to distinguishing some offenses rather than other as jury demandable, other than maximum penalty.
1. Ms. Hankins stated that a jury trial should be available for all offenses punishable by over six month incarceration, all offenses that would be deportable (irrespective of the defendant's personal immigration status), all offenses that require sex offender registration or gun offender registration, all offenses that trigger a felony recidivism enhancement, and all attempts to commit an offense that would otherwise be jury demandable.
  2. The Executive Director noted that it may be difficult to discern which RCC offenses are deportable and invited PDS to specify the specific offenses or a clear standard for determining such offenses.
- c. The Advisory Group discussed the relative severity of the revised burglary offenses.
- i. The Executive Director noted that the revised burglary offense is, in many ways, broader than common law burglary.<sup>5</sup> For example, it does not require *forced* entry or an intent to commit a crime *inside* the premises. He noted that many criminal law experts have argued for getting rid of burglary as a distinct crime and relying on other statutes and attempt

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<sup>5</sup> The Executive Director distributed an overview of the burglary offense written by Wayne LaFave. 3 Subst. Crim L. § 21.1(g) (3d ed.).

- liability to sanction burglary-type behavior. The Executive Director provided a copy of an analysis to this effect by Professor Wayne LaFave.
- ii. The Executive explained that there are examples of burglaries that involve egregious conduct and egregious harms (e.g., a home invasion with intent to commit an offense against persons). However, while cases involving these fact patterns are commonly thought of as “burglaries” under current law, they also amount to very serious offenses under the RCC (e.g., attempted assault, attempted sexual assault, attempted murder) and current law. Under the RCC, the most egregious conduct in the fact pattern drives the maximum penalty. The additional penalty for the burglary offense effectively operates like an enhancement for engaging in other criminal conduct in a location that warrants treating it more seriously. The penalty for the revised burglary offense should reflect how much *additional* liability is warranted given the particular trauma that may occur by virtue of the protected location. The First Draft of Report #41 proposes five years, three years, and one year of additional exposure. Convictions for burglary in the RCC would be in addition to liability for predicate behavior which could be sentenced consecutively.
  - iii. The Executive Director noted that USAO stated, in its written comments, that the maximum penalty for each offense should accommodate the most serious version of that offense. The Executive Director said that such an approach is incomplete because it is important to consider the entire constellation of penalties available under the RCC for a given fact pattern, the entire liability a defendant faces for their behavior. Focusing on the penalty for one offense can be misleading as to the penalty exposure a defendant faces. The RCC focuses on ensuring the overall penalty a defendant faces for behavior is proportionate. In contrast with the current D.C. Code, the revised burglary statute reflects the belief that the underlying predicate conduct should be the main source of criminal liability, rather than letting one offense, burglary, do all the work accounting for the most egregious types of conduct that occur during a burglary.
  - iv. Ms. Suttenger stated that the RCC approach may not always result in longer sentences in every case. For example, a judge may impose a sentence for a burglary offense to run concurrent to the sentence for the predicate offense.
    - 1. The Executive Director said that the CCRC’s goal is to make the amount of authorized, available punishment sufficient, not to ensure judges reach particular outcomes in particular cases.
  - v. The Executive Director noted that the 30-year penalty under current law is not supported by practice in other jurisdictions, and District practice, while much lower, is still unusually high compared to the rest of the country. BJS statistics indicates that among all state prisoners across the country, where burglary is the most serious offense in the case, 78.3% of burglaries are punished by less than 3 years incarceration; 91.5% less than 5 years; 98.1% less than 10 years; and 99.7% less than 20 years.

- vi. The Executive Director said that the CCRC public opinion surveys of District residents do not support anything near a 30 year sentence for burglary, nor do the District Superior court data where the high end (97.5%) of unenhanced burglary sentences is 10 years and enhanced burglary sentences is 15 years. It appears that, because the maximum penalty is so high, that charge subsumes the role of the more egregious conduct (e.g., assault) in that location. The District's penalties are much more severe than other states and still not near the statutory maximum. The most egregious facts are addressed through other aspects of the RCC.
- vii. Ms. Suttenger stated that the trauma caused by invading the location (which may lead to nightmares) is not subordinate to the harm caused by other conduct. Ms. Suttenger stated that the maximum should be high enough to accommodate the worst case for a person with the highest criminal history score.
  - 1. Mr. Rosenthal agreed that there is a distinctive harm to burglary, stating that butt grab on the street is very different than waking up to a butt grab in your home.
  - 2. Ms. Hankins said that neither USAO nor OAG written comments raise this point on the six-month penalty for trespass by knowingly entering or remaining in a dwelling.
- viii. The Executive Director agreed that there is a distinct, serious, and potentially traumatic harm inflicted by virtue of committing an offense in a location such as a dwelling. That is why the RCC draft recommends providing felony-level liability for the offense. However, the 30-year maximum in current law is not supported by other jurisdictions, survey evidence, or current District practice as evident in court statistics.
- ix. The Executive Director urged the group to review the spreadsheet that organizes the RCC offenses by severity and consider which offenses are comparable to burglary assuming there is separate liability for the predicate harm. The Executive Director also encouraged the group to consider what other RCC liability is available for a given fact pattern, giving special attention to attempt liability, which has become a more robust charge in the RCC and does a lot of work. The Executive Director noted that USAO written comments provided one such hypothetical involving a simple assault and threat to commit a sex assault during a burglary, and said this was a helpful test for the RCC—does the RCC authorize adequate punish for such conduct, not just in one offense, but cumulatively? The Executive Director encouraged the group to ensure that the event that happened is adequately punished by the entire revised code and the array of offenses available for prosecution, and not by each offense in isolation.

### **III. Adjournment.**

- a. The meeting was adjourned at 12:00 pm.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION**  
**NOTICE OF PUBLIC MEETING**  
**WEDNESDAY, JANUARY 8, 2020 AT 10:00 AM**  
**441 4<sup>TH</sup> STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, January 8, 2020 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11<sup>th</sup> Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
  - (A) Advisory Group Memorandum #26, *D.C. Code Statutory Penalties and Voluntary Sentencing Guidelines*; and
  - (B) Advisory Group Memorandum #27, *Public Opinion Surveys on Ordinal Ranking of Offenses*;
  - (C) Advisory Group Memorandum #28, *Statistics on District Adult Criminal Charges and Convictions*;
  - (D) First Draft of Report #42, *Obscenity, Privacy, and Related Offenses*;
  - (E) Advisory Group Memorandum #29, *Supplemental Materials to First Draft of Report #42*;
  - (F) First Draft of Report #43, *Blackmail*
  - (G) First Draft of Report #44, *Trademark Counterfeiting*
  - (H) First Draft of Report #45, *Fraudulent Advertising and Fraudulent Registration*
  - (I) First Draft of Report #46, *Possession of an Open Container of Alcohol*
  - (J) First Draft of Report #47, *Illegal Vending*
  - (K) First Draft of Report #48, *Incest*
  - (L) First Draft of Report #49, *Parental Kidnapping*
- III. Discussion of Advisory Group Written Comments on First Draft of Report #41, *Ordinal Ranking of Maximum Imprisonment Penalties*.
- IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).





## **D.C. Criminal Code Reform Commission**

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715    [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### **MINUTES OF PUBLIC MEETING**

**WEDNESDAY, JANUARY 8, 2020, at 10:00 AM**

**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW  
WASHINGTON, D.C. 20001**

On Wednesday, January 8, 2020 at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held in Room 1112 at 441 Fourth St., N.W., Washington, D.C. The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

Rachel Redfern (Senior Attorney Advisor)

Gabrielle Green (Attorney Advisor)

Blair Martinez (Legal Fellow)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of  
The Public Defender Service for the District  
Of Columbia)

Elana Suttenger (Designee of the United  
States Attorney for the District of Columbia)

Kevin Whitfield (Designee of the D.C.  
Council Committee on the Judiciary and  
Public Safety) (by phone)

Dave Rosenthal (Designee of the  
D.C. Attorney General)

Don Braman (Council Appointee)

**I. Welcome and Announcements.**

- a. The Executive Director welcomed Gabrielle Green, a new attorney advisor with the CCRC, and Blair Martinez, a legal fellow and GW Law School student who will work with the agency for the semester.
- b. The Executive Director noted that the deadline for written comments on the First Drafts of Reports #42-49 has been extended from January 15, 2020 to January 24, 2020.
- c. The Executive Director said that the CCRC plans to issue another update to the revised code around mid-February. The update will include appendices that address Advisory Group comments, as well as any new changes made by CCRC staff.
  - i. The Executive Director also stated that the comments to reports #42-49 will be incorporated into the updated materials to be produced in February, 2020.
- d. The Executive Director noted that the CCRC currently intends to produce a version of the criminal code for a vote by the Advisory Group in June, 2020.
- e. The Executive Director noted that although the Council may provide a funding extension, the CCRC currently is proceeding under the assumption that work will terminate in September, 2020.

**II. The Advisory Group discussed the Draft Reports #42 - #49 and Memoranda #26 - #28 Currently Under Advisory Group Review.**

- a. The OAG representative noted that its office is still coming to a decision about whether the scope of the offense should be narrowed to exclude possession of open containers outside of a vehicle.
  - i. With respect to open containers in vehicles, OAG stated it may recommend that offense be consistent with the current impaired driving statutes.
  - ii. Specifically, OAG notes that it may recommend altering the definitions to be consistent with the current definitions under Title 50, instead of relying on definitions used in Federal statutes.
  - iii. OAG noted that current impaired driving statutes include both operating a vehicle and being in physical control of the vehicle while under the influence of alcohol. OAG may recommend that the open container statute should be amended to include possessing an open container while being in physical control of the vehicle.
- b. The OAG representative asked whether other jurisdictions have alternate civil enforcement mechanisms in place to address decriminalized conduct. The OAG representative specifically referenced the CCRC recommendation to decriminalize vending without a license as an example.
  - i. The Executive Director noted that developing a civil regulatory regime to address decriminalized conduct may be beyond the scope of the CCRC's statutory mandate to address criminal statutes. The CCRC may note if other jurisdictions have implemented alternate enforcement mechanisms and may choose to issue decriminalization recommendation, but the Council will have to decide how to further address civil enforcement.
  - ii. The PDS Representative noted that this issue arose with decriminalization of possession of marijuana. It was unclear how to create a civil enforcement mechanism to penalize public use of marijuana.

- iii. The Executive Director noted that with respect to illegal vending, there are civil remedies currently in place, which would not be changed by decriminalization.
  - iv. The OAG representative said that current practice is that law enforcement relies on criminal remedies, not the civil remedies.
- c. The OAG representative asked whether the CCRC's recommendation with respect to possession of an open container would have any effect on criminalization of public use of marijuana.
  - i. The Executive Director said that public consumption of marijuana would still be criminalized, but not public possession of alcohol or public intoxication.
- d. The Executive Director asked if there were any other general questions relating to Reports #26-28. The Executive Director noted that the CCRC works with an outside data analyst to analyze the Superior Court data. The CCRC may request additional data from the Court, and may request additional analysis of prior and additional data.
  - i. Don Braman asked if for the purposes of work with the Commission, Advisory Group members could have access to the court data.
  - ii. The Executive Director said that the CCRC cannot provide the raw data, but that Advisory Group members may request of the Executive Director that additional analysis to be performed by the outside data analyst.

### **III. The Advisory Group discussed Written Comments on First Draft of Report #41, Ordinal Ranking of Maximum Imprisonment Penalties.**

- a. The Executive Director noted that the CCRC hopes to produce some commentary with respect to at least some penalty recommendations, but that due to time constraints, it likely would not provide commentary discussing the rationale for every penalty recommendation.
- b. The Executive Director noted that in general, the public opinion surveys and court data were taken seriously in making penalty recommendations. The survey responses were particularly relevant to recommendations with respect to penalties for weapons, and the Executive Director suggested Advisory Group members review the survey results for a direct examination of District voters opinions.
- c. The Executive Director said that the February update will include fairly brief commentary with respect to comments about penalty recommendations, but that the CCRC intends to produce more detailed commentaries at a later time.

### **IV. Adjournment.**

- a. The meeting was adjourned at 11:00 pm.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, FEBRUARY 5, 2020 AT 10:00 AM  
441 4<sup>TH</sup> STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, February 5, 2020 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11<sup>th</sup> Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments on:
  - (A) First Draft of Report #42, *Obscenity, Privacy, and Related Offenses*;
  - (B) First Draft of Report #43, *Blackmail*
  - (C) First Draft of Report #44, *Trademark Counterfeiting*
  - (D) First Draft of Report #45, *Fraudulent Advertising and Fraudulent Registration*
  - (E) First Draft of Report #46, *Possession of an Open Container of Alcohol*
  - (F) First Draft of Report #47, *Illegal Vending*
  - (G) First Draft of Report #48, *Incest*
  - (H) First Draft of Report #49, *Parental Kidnapping*
- III. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

### MINUTES OF PUBLIC MEETING

**WEDNESDAY, FEBRUARY 5, 2020, at 10:00 AM**

**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW  
WASHINGTON, D.C. 20001**

On Wednesday, February 5, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held in Room 1112 at 441 Fourth St., N.W., Washington, D.C. The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)  
(by phone)

Patrice Sulton (Senior Attorney Advisor)

Gabrielle Green (Attorney Advisor)

Blaire Martinez (Legal Fellow)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of  
Public Defender Service for the  
District of Columbia)

Katerina Semyonova (Visiting Attendee of  
Public Defender Service for the  
District of Columbia)

Elana Suttentberg (Designee of  
United States Attorney for the District  
Columbia)

Dave Rosenthal (Designee of the  
D.C. Attorney General)

Paul Butler (Council Appointee)  
(by phone)

Don Braman (Council Appointee)

#### **I. Welcome and Announcements.**

- a. The Executive Director noted staff expects to issue a comprehensive update the end of next week or the following week. It will include updated drafts and a disposition of comments received on all RCC recommendations to date except for Chapter 6. It will

also include an updated spreadsheet listing the ordinal ranking of penalties for each RCC offense and jury demandability recommendations. Advisory Group members will have about 8 weeks for written comments. In mid-March, staff expects to issue an update to Chapter 6, including penalty enhancements and absolute numbers for each penalty class.

- b. The Advisory Group's next meeting will be held on March 4, 2020 and the agenda will concern the updated recommendations.

**II. The Advisory Group discussed the written comments on the First Draft of Report #49, Parental Kidnapping.**

- a. The Executive Director asked if USAO agreed with the OAG analysis and recommendation that parental kidnapping be prosecuted by USAO, citing *In re Crawley*, 978 A.2d 608 (D.C. 2009); *In re Hall*, 31 A.3d 453, 456 (D.C. 2011); and *In re Prosecution of Nicco Settles*, 218 A.3d 235 (D.C. 2019).
  - i. The USAO representative said she was not able to identify a case in which the office had charged only parental kidnapping. It did identify a case in which it charged parental kidnapping and simple assault. In that case consent from OAG was not sought under D.C. Code § 23-101.
- b. USAO noted that, as a global issue, it would be helpful to clarify in the statutory language which party has the burden of proof for affirmative defenses and exclusions from liability.
  - i. The Executive Director said that the Commission plans to address the burden of proof and burden of production for all exclusions, defenses, and affirmative defenses in the RCC's General Part.

**III. The Advisory Group did not have any comments at this time on the First Drafts of Reports #42 – 49.**

**IV. Adjournment.**

- a. The meeting was adjourned at 10:25 am.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, MARCH 4, 2020 AT 10:00 AM  
441 4<sup>TH</sup> STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, March 4, 2019 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11<sup>th</sup> Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
  - (A) First Draft of Report #50 - Cumulative Update to the Revised Criminal Code Other than Chapter 6 (2-19-20);
  - (B) Advisory Group Memo #30 - Supplemental Materials to the First Draft of Report #50; and
  - (C) Second Draft of Report #41 - Ordinal Ranking of Maximum Imprisonment Penalties.
- III. Adjournment.



## **D.C. Criminal Code Reform Commission**

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715    [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### **MINUTES OF PUBLIC MEETING**

**WEDNESDAY, MARCH 4, 2020, at 10:00 AM**

**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW  
WASHINGTON, D.C. 20001**

On Wednesday, March 4, 2020 at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held in Room 1112 at 441 Fourth St., N.W., Washington, D.C. The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Jinwoo Park (Senior Attorney Advisor)

Rachel Redfern (Senior Attorney Advisor)

Gabrielle Green (Attorney Advisor)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of  
The Public Defender Service for the District  
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Elana Suttenger (Visiting Attendee of the  
United States Attorney for the District  
of Columbia)

Katerina Semyonova (Visiting Attendee of  
the Public Defender Service for the District  
of Columbia)

Dave Rosenthal (Designee of the Attorney  
General of the District of Columbia) (by  
phone)

Don Braman (Council Appointee) (by phone)

Paul Butler (Council Appointee) (by phone)



**I. Welcome and Announcements.**

- a. The Executive Director stated that in approximately two weeks, the CCRC intends to issue a report with recommendations for changes to Chapter 6, which will include recommendations for maximum penalties (fines and imprisonment) for penalty classes, and penalties for bias related and repeat offender enhancements. The Executive Director noted that this report will not include detailed discussion of rationales for how these recommendations for penalty classes apply to particular offenses. Time permitting, the Executive Director said that later in the spring, the CCRC intends to provide more detailed discussion of how and why the specific offenses are recommended for particular punishments using the revised classification system.
- b. The Executive Director asked Advisor Group members if they are available for an additional meeting to be held on April 22, 2020. The Director noted that the meeting may not be necessary, but asked present members to block off the time. Whether the meeting is held will depend on the comments received from the Advisory Group on April 15 regarding the First Draft of Report #50, and the input from the Committee on the Judiciary and Public Safety.
  - i. The Advisory Group tentatively agreed that if an additional meeting is needed, it will be held on April 23, 2020, at 10:00 AM.
- c. The Executive Director requested that in preparing comments to the First Draft of Report #50, that Advisory Group members limit their comments to new changes that the CCRC has made to draft statutes and commentary since the Advisory Group last reviewed these materials. The Executive Director noted that all written comments to prior drafts have been preserved and are available for reconsideration; they need not be repeated.
- d. The Executive Director said staff are available, upon request, to meet individually with Advisory Group members to discuss questions or concerns.

**II. The Advisory Group Discussed First Draft of Report #50, Cumulative Updates to the Revised Criminal Code Other than Chapter 6.**

- a. The Executive Director asked if the Advisory Group members had any questions or matters to discuss at this time regarding the First Draft of Report #50.
- b. The USAO representative asked why the RCC sexual abuse of a minor statute (RCC § 22E-1302) requires strict liability as to the age of the complainant in the offense, with an affirmative defense for a reasonable mistake of age, but other RCC sex offenses require recklessness as to the complainant's age and sexually suggestive conduct with a minor (RCC § 22E-1304) makes the complainant's age an element of the offense.
  - i. The CCRC staff replied that strict liability may be more proportionate under the RCC sexual abuse of a minor statute because the offense requires comparatively more serious conduct (i.e., a sexual act or sexual contact). The RCC sexually suggestive conduct with a minor offense is

broader and includes comparatively less serious conduct (e.g. kissing with intent to sexually arouse), so it may be more proportionate to require proof of recklessness as to the age of the complainant. The CCRC staff also referred to the RCC enticing a minor into sexual conduct offense (RCC § 22E-1305), which is an inchoate offense that does not require any sexual activity to occur requires recklessness as to the age of the complainant.

- ii. The CCRC staff noted that RCC is an outlier nationally in criminalizing the types of relatively low-level conduct involved in the sexually suggestive conduct with a minor offense.
- iii. The Executive Director noted that the American Law Institute (ALI) will be issuing new recommendations for model sex offenses sometime this year, possibly in May. The Executive Director noted that it appears the ALI will recommend (consistent with prior drafts) that sex offenses require that the actor was reckless as to the age of the complainant. The Executive Director said he would distribute those recommendations when they are formally issued by the ALI.
- c. The Executive Director noted that when the First Draft of Report #50 was drafted, it was unclear when the report including recommendations as to jury demandability would be issued. As a result, some language in First Draft of Report #50 may not properly cite to the First Draft of Report #51, which included jury demandability recommendations.

### **III. Adjournment.**

- a. There being no further questions from the Advisory Group, the meeting was adjourned at 10:20 am.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, APRIL 1, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, April 1, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number: 1-650-479-3208**

**Access code: 473 825 222.**

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**UPDATED MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
  - (A) First Draft of Report #50 - Cumulative Update to the Revised Criminal Code Other than Chapter 6 (2-19-20);
  - (B) Advisory Group Memo #30 - Supplemental Materials to the First Draft of Report #50;
  - (C) Second Draft of Report #41 - Ordinal Ranking of Maximum Imprisonment Penalties.
  - (D) First Draft of Report #51 – Jury Demandable Offenses (2-25-20);
  - (E) Advisory Group Memo #31 - Supplemental Materials to the First Draft of Report #51;
  - (F) First Draft of Report #52 - Cumulative Update to the Revised Criminal Code Chapter 6; and
  - (G) Advisory Group Memo #32 - Supplemental Materials to the First Draft of Report #52.
- III. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF CANCELLATION OF PUBLIC MEETING  
PREVIOUSLY SCHEDULED FOR WEDNESDAY, APRIL 1, 2020 AT 10:00 AM**

The D.C. Criminal Code Reform Commission (CCRC) will not hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, April 1, 2020 at 10am.

Notice of future meetings will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, MAY 6, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, May 6, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number: 1-650-479-3208**

**Access code: 472 039 791.**

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments On:
  - (A) First Draft of Report #50 - Cumulative Update to the Revised Criminal Code Other than Chapter 6 (2-19-20);
- III. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
  - (A) Second Draft of Report #41 - Ordinal Ranking of Maximum Imprisonment Penalties.
  - (B) First Draft of Report #51 – Jury Demandable Offenses (2-25-20);
  - (C) Advisory Group Memo #31 - Supplemental Materials to the First Draft of Report #51;
  - (D) First Draft of Report #52 - Cumulative Update to the Revised Criminal Code Chapter 6; and
  - (E) Advisory Group Memo #32 - Supplemental Materials to the First Draft of Report #52.
- IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**MINUTES OF PUBLIC MEETING**

**WEDNESDAY, MAY 6, 2020, at 10:00 AM**  
**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW**  
**WASHINGTON, D.C. 20001**

On Wednesday, May 6, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 472 039 791). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

**Commission Staff in Attendance:**

Richard Schmechel (Executive Director)	Rachel Redfern (Senior Attorney Advisor)
Jinwoo Park (Senior Attorney Advisor)	Patrice Sulton (Senior Attorney Advisor)
Gabrielle Green (Attorney Advisor)	

**Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)	Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)
Elana Suttentberg (Visiting Attendee of the United States Attorney for the District Columbia)	Dave Rosenthal (Designee of the District of Columbia Attorney General)
Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)	Don Braman (Council Appointee)

**I. Welcome and Announcements.**

- a. The Executive Director noted written comments for all outstanding reports are due on Friday, May 15, 2020.

- b. On or shortly after May 15, CCRC will issue another batch of recommendations, including an assortment of residual matters. Written comments will be due in mid-June.
- c. CCRC currently plans to have a voting draft of recommendations drafted to-date in mid- or late July and a vote in September, before our statutory deadline. However, the timeline may change, particularly if CCRC's operating budget is extended into 2021, affording CCRC enough time to issue additional recommendations and improve existing recommendations.
- d. The next Advisory Group meeting will be held on June 3, 2020.

**II. The Advisory Group discussed the written comments on the First Draft of Report #50, Cumulative Update to the Revised Criminal Code Other than Chapter 6:**

- a. The Advisory Group discussed OAG's comment on possession of a controlled substance, recommending changing paragraph (g)(2) (which is identical to current D.C. Code § 48-904.01(e)(2)) to include the language "Except as otherwise provided by federal law." OAG clarified that the purpose of this recommendation is to avoid federal preemption issues. The Executive Director invited members to submit any authority relating to federal preemption issues in this context. USAO indicated that it also will review the issue too.
- b. The Advisory Group discussed USAO's comment on the definition of debt bondage, recommending striking paragraphs (A) – (C) (which are identical to current D.C. Code § 22-1831(5)). The Executive Director offered a hypothetical in which a person works for 25 years to pay off a relatively small debt of \$20,000. Under current law this would appear to be chargeable as human trafficking even without proof of force or coercion. However, with USAO's proposed change, it appears that would not amount to a human trafficking offense, under RCC Chapter 16, unless there is a coercive threat—but if there is a coercive threat, the reference to debt bondage in RCC offenses would do no work under the USAO definition, it being a mere species of coercive threat (in relation to a debt).
  - i. USAO replied that the comment was made to reflect the belief that the essence of the human trafficking offense is the use of "force" and that paragraphs (A) – (C) appear to offer only limited examples of force. USAO clarified that its comment is not intended to narrow the trafficking offense. USAO said that it did not intend to narrow the scope of human trafficking liability and indicated that it will review the offense definition language and the definition of "coercive threat" again and supplement its written comments, if necessary.
- c. The Advisory Group discussed USAO's comments on felony murder concerning penalty proportionality and seriousness.
  - i. The Executive Director requested that all Advisory Group members include additional information when citing specific cases as examples of penalty proportionality or disproportionality, and provide specific

evidence when making assertions about the impact of a given change of law on the incidence of crime and public safety.

1. For example, he said it would be helpful to know: What were all the charges, what were all the convictions, what were all the sentences, were the sentences consecutive or concurrent?
  2. He said that appellate decisions are sometimes less helpful, as they often do not present all of the facts of a case, only discussing those that are relevant to a disputed issue.
  3. He noted that, as has been previously discussed, when multiple offenses are involved, the revised code aims to ensure that the penalty for the entire conduct is proportionate, not that the penalty for each individual charge reflects the seriousness of all charges involved in a given case. How the law breaks conduct up into crimes can artificially minimize or magnify the seriousness of the conduct, and the CCRC goal is to ensure proportionate punishment for the conduct as a whole.
  4. Additionally, he noted that well-established social science research from the Department of Justice's National Institute of Justice that increasing prison sentences can exacerbate – instead of reduce – crime rates. Though perhaps counterintuitive, this evidence is consistent with findings by the American Law Institute and others have found.
  5. CCRC wants to be very careful in vetting assertions about public safety because they are powerful. If there is countervailing social science evidence, please include it as context. The CCRC wants to provide evidence-based recommendations to the Council and Mayor to the extent possible.
- ii. USAO stated that appellate decisions were included as practical examples of felony murder and accomplice liability because they are public records that are readily accessible.
1. USAO agreed that appellate decisions may provide only a limited discussion of a case.
  2. USAO stated that, in addition to the number of years in a given sentence, the label that is assigned to the offender has independent value to victims and the community.
  3. USAO stated that it aims to illustrate gaps in liability to ensure public safety is protected.
- iii. PDS noted a distinction between a gap in liability and subjective concerns about underpunishment because a conduct is criminalized as a lower-level offense or with a lower penalty.



1. PDS stated that, although choosing a few horrendous cases may be helpful and illuminating, it should not be the primary consideration that drives policy. For example, PDS said it did not rely on examples of particularly sympathetic cases to justify a significant reduction in penalties, but such cases exist.
  2. PDS stated that USAO's position on penalties is not always aligned with the community's perspective.
  3. USAO agreed that it cited the most heinous examples, explaining that a maximum penalty must be high enough to account for the worst possible version of an offense. Where a case is particularly sympathetic, courts have discretion to impose a lower sentence.
  4. OAG noted that the RCC, in a draft report now under review, proposes to eliminate mandatory minima, which would permit a judge to give a lighter sentence than under current law in a particularly sympathetic case.
  5. The Executive Director noted that the demarcation between 1<sup>st</sup> degree murder which currently has a mandatory minimum of 30 years, and 2<sup>nd</sup> degree murder which currently has no mandatory minimum, has a significant practical effect under current law. Court data distributed to the Advisory Group shows that 25 – 50% of sentences for first degree murder are at the statutory floor. This suggests the mandatory minimum is preventing judges from providing lower penalties for some first degree murders—presumably those where the circumstances are most sympathetic.
- iv. Professor Braman explained that the examples USAO cited do not appear to highlight a gap in liability. Had the government proven the elements of 1<sup>st</sup> degree murder at trial, the desired maximum sentence would have been available. Felony murder, which is growing unpopular in a number of states, does not eliminate a gap in liability as much as it relieves the government of its burden of proving the requisite intent in a murder case.
1. USAO agreed that 1<sup>st</sup> degree murder may have been an available charge in some of the cases it cited but would have been required to prove premeditation and deliberation. USAO stated that choosing to engage in felony conduct requires planning and, if the felony then results in a death that is more culpable conduct than an instantaneous 2<sup>nd</sup> degree murder.
  2. Professor Braman offered an example to illustrate that it is not always true that felony murder is more heinous conduct than second degree murder. Where a person commits the least serious version of a felony and a resulting death is entirely accidental,

felony murder elevates that conduct to the same level as a case in which someone, with full premeditation, plans and purposefully murders someone.

- v. The Council representative explained that the structure of the RCC requires a shift in mindset from the sentencing schemes of old that often gave judges broad discretion to impose a life sentence for a single charge and run all other charges concurrent. Consecutive sentencing is rarely used even though it is available. In contrast, the RCC requires the court to look at the core harm of each offense, without hitching other conduct that constitutes other offenses. Penalties can then be run consecutive if that would be necessary for proportionate punishment.

- 1. The Executive Director noted a distinction between ensuring that the maximum penalty accounts for the most egregious version of an offense and ensuring that it accounts for the most egregious combination of offenses. In current practice, offenses are drawn broadly, maximum ceilings are set high, and judges appear to rely on a single sentence for a single offense instead of evaluating each type of criminal behavior that was involved in the situation. Instead of letting any one offense do all of the work, however, the RCC more precisely asks: Is the overall available punishment (which may be spread out between multiple offenses) proportionate? To do otherwise is to effectively ignore or minimize some aspects of the conduct (for which the penalty is run concurrent) and overemphasize other aspects of the conduct (which provides a punishment so high as to also account for other aspects of the conduct).

- vi. USAO asked for clarification of the RCC's merger provision in 22E-214 with respect to felony murder.

- 1. The Executive Director explained that in the examples cited in USAO's written comments it appeared that a person could be charged with both 2<sup>nd</sup> degree murder under a depraved heart theory of prosecution and, in addition, be sentenced for a felony first degree sex assault, burglary, etc.. Those convictions would not merge under current District law or the RCC. Were the 2<sup>nd</sup> degree murder convictions obtained solely on a felony murder theory, then the conviction would merge with the predicate felony, both under the current District law and the RCC. The RCC doesn't change how merger works with respect to felony murder. But, only by looking at more information about cases – such as all charges, all convictions, and all sentences – can a comparison between the

maximum penalty under current law and the maximum penalty under the RCC be made. In many cases, the RCC penalties may be equal or higher.

2. OAG asked whether the RCC includes a provision addressing consecutive versus concurrent sentencing.
  - a. The Executive Director stated that current D.C. Code § 23-112 remains unchanged.
  - b. Very few provisions under current law or the RCC (e.g., offenses committed on release) require consecutive sentencing. This is left to the prerogative of the court.
  - c. The Executive Director explained some of the challenges presented by the current court data. It is often unclear whether sentences are consecutive or concurrent and to what. Even where there is a single conviction, it is difficult to measure the impact of charge bargaining.
- vii. The Executive Director said it was important to distinguish between sentencing changes and scope of liability changes. In the latter it may be easier to draw a connection between the change in law and claims about change in public behavior. But, USAO's written comment broadly asserted that the RCC's proposed change to categorize felony murder as second degree murder instead of first degree murder would lead to an increase in crime. In fact, the RCC's categorization of felony murder as second degree murder (or enhanced second degree murder) may not substantially change the maximum penalties available when viewing the revised code as a whole. Through charging of RCC offenses, a person may be subject to the same imprisonment time as in prior cases for one charge. More basically, any suggestion that the crime rate will change based changing the maximum penalties available may be a tough assertion to support. Research on the deterrence effect of different penalties (referenced in a Department of Justice publication distributed to the Advisory Group in a prior memo) is consistent in finding that marginal and even significant increases do not deter criminal behavior and that increased incarceration may instead have a criminogenic effect. CCRC welcomes any countervailing research.
- d. USAO raised a question about the sexual assault consent defense in RCC § 22E-1301(e)(2). Specifically, USAO asked whether effective consent should be a standard defense, which the government must disprove, instead of an affirmative defense. USAO and PDS raised a concern about the provision causing confusion when the complainant is a minor.

- i. The Executive Director indicated that CCRC will revisit these issues before the next draft. Effective consent is a difficult area of law. It is unclear in current District law and it has been a point of consternation for the American Law Institute (“ALI”) for years in its efforts to develop recommendations for updating the Model Penal Code. However, the RCC does not include the degree of detail the ALI used in its model draft. The Executive Director said that RCC does not intend to criminalize consensual sadomasochistic activity that accidentally causes a significant bodily injury, and the culpable mental state or lack thereof in the current draft defense may need to be changed. The RCC will also revisit the structure of the offenses, defenses, and enhancements with an eye toward clarifying proof requirements in cases that involve both force and age elements.

**III. The Advisory Group discussed the Second Draft of Report #41, the First Draft of Report #51, Advisory Group Memo #31, the First Draft of Report #52, or Advisory Group Memo #32:**

- a. OAG raised a question about the repeat offender penalty enhancement in RCC § 22E-606. Specifically, the phrase “in fact” appears before “commits a felony/misdemeanor,” and OAG asked whether it should instead appear after “commits [an offense]” and before “at the time has [a prior conviction].”
  - i. The Executive Director noted that the OAG representative may be referring to a recurring drafting problem. When the RCC cross-references an offense codified another statute, it does not intend to change the mental state required for the cross-referenced offense. The question is how to draft statutes to be clear about this, by using “in fact” (which may give the mistaken impression that no culpable mental state is required for the referenced offense) before such cross-references or not. CCRC will revisit the issue of drafting these provisions or the commentary with more clarity, to signal that intended meaning.
- b. OAG raised a question about the intended meaning of the phrase “not on the same occasion” in RCC §§ 22E-606. Specifically, OAG asked whether the phrase is intended to mean “on a different occasion than the instant offense,” “on a different occasion than another prior offense,” or both.
  - i. The Executive Director invited OAG to include this drafting issue in its written comments so that CCRC is reminded to revisit it before the next draft.

**IV. Adjournment.**

- a. There being no further questions, the meeting was adjourned at 11:57 a.m.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, JUNE 3, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, May 6, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number: 1-650-479-3208**

**Access code: 160 625 4909.**

**Please note this access code was updated June 2, 2020.**

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments On:
  - (A) Second Draft of Report #41 - Ordinal Ranking of Maximum Imprisonment Penalties.
  - (B) First Draft of Report #51 – Jury Demandable Offenses; and
  - (C) First Draft of Report #52 – Cumulative Update to the Revised Criminal Code Chapter 6.
- III. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
  - (A) Third Draft of Report #41 - Ordinal Ranking of Maximum Imprisonment Penalties;
  - (B) Second Draft of Report #19 - Homicide Offenses;
  - (C) Second Draft of Report #27 – Human Trafficking and Related Statutes;
  - (D) Second Draft of Report #35 – Cumulative Update to Sections 201-213 of the RCC;
  - (E) Advisory Group Memo #33 - Supplemental Materials to the First Draft of Report #53 and the Second Draft of Report # 19;
  - (F) Advisory Group Memo #34 - Supplemental Materials to the Second Draft of Report #27;

- (G) Advisory Group Memo #35 - Supplemental Materials to the Second Draft of Report #35;
- (H) First Draft of Report #53 – Pinkerton Liability;
- (I) First Draft of Report #54 – Prostitution and Related Statutes;
- (J) Advisory Group Memo #36 – Supplemental Materials to the First Draft of Report #54;
- (K) First Draft of Report #55 – Failure to Appear and Violation of Conditions of Release Offenses;
- (L) First Draft of Report #56 – Panhandling;
- (M) First Draft of Report #57 – Second Look;
- (N) First Draft of Report #58 – Developmental Incapacity Defense;
- (O) Advisory Group Memo #37 – Supplemental Materials to the First Draft of Report #58; and
- (P) First Draft of Report #59 – Endangerment with a Firearm.

#### IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## **D.C. Criminal Code Reform Commission**

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715    [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### **MINUTES OF PUBLIC MEETING**

**WEDNESDAY, JUNE 3, 2020, at 10:00 AM**

**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW  
WASHINGTON, D.C. 20001**

On Wednesday, June 3, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 160 625 4909). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

Gabrielle Green (Attorney Advisor)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of Public Defender Service for the District of Columbia)

Katerina Semyonova (Visiting Attendee of Public Defender Service for the District of Columbia)

Dave Rosenthal (Designee of the D.C. Attorney General's Office)

Seema Gajwani (Visiting Attendee of the D.C. Attorney General's Office)

Elana Suttenger (Visiting Attendee of the United States Attorney for the District of Columbia)

Nishant Keerikatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

Don Braman (Council Appointee)

Paul Butler (Council Appointee)

**I. Welcome and Announcements.**

- a. The group observed a moment of silence in honor of George Floyd whose death last week during an arrest by Minneapolis MN police led to widespread protests in the District and nationally.
- b. The Executive Director introduced CCRC's summer legal interns: Varun Bhadha, Jocelyn Westray, and Jordan Chemtob.
- c. CCRC welcomes any questions on the outstanding reports before written comments are due on June 19.
- d. CCRC expects to issue a small batch of draft reports, including updated court statistics in late June, with the next full draft of all recommendations to-date in late July or early August. This may be the last draft before a September Advisory Group vote on the recommendations.
- e. Our next meeting will be held on July 1, 2020.

**II. The Advisory Group discussed the written comments on the Second Draft of Report #41 - Ordinal Ranking of Maximum Imprisonment Penalties; the First Draft of Report #51 – Jury Demandable Offenses; and the First Draft of Report #52 – Cumulative Update to the Revised Criminal Code Chapter 6.**

- a. The group discussed two OAG written comments on the jury demandability provision in RCC § 16-705.
  - i. First, a written comment from OAG said that it wished to hear from other Advisory Group members regarding whether and how to codify language specifying how courts should determine questions of fact about the status of the complainant as a law enforcement officer which, per the draft recommendation, could determine the right to a jury trial. The written comment said that OAG did not take a position on the right to a jury trial involving a law enforcement officer as a complainant at this time, pending input from other members.
  - ii. Second, a written comment from OAG said that it does not support the draft recommendation that offenses that carry incarceration of 90 days or less be jury demandable, and that a corollary to the CCRC's statutory mandate to provide for proportionate penalties is that "defendants who are facing the same amount of time incarcerated should have the same rights to a jury trial."
  - iii. Regarding the first comment:
    - 1. The Executive Director said that the CCRC was open to codifying a provision about burden of proof and standards and asked if OAG had any suggestions. However, the Executive Director noted that there are other instances under current law in which courts must decide a question of fact or mixed question of law and fact to determine whether a person has a right to a jury trial. For example, under D.C. Code § 22-3302, an unlawful entry on public property is jury demandable and an unlawful entry on private property is not. Jurisdiction determinations may rest on the location of alleged conduct. There are no codified rules of procedure for how to handle these matters, yet they are routinely handled by trial judges when they arise and decisions are subject to appeal.



2. OAG said that its concern is that, without codifying a procedure, the parties might frequently try a case to the wrong factfinder and be forced to retry the case after an appeal.
  3. PDS noted that the right is clearly triggered in every case in which the government “alleges” the complainant is a law enforcement officer as an element of the offense or an offense aggravator.
  4. OAG pointed out that the CCRC recommendation appears to apply whether or not the officer is working a tour of duty or in uniform. OAG offered a hypothetical in which a person who just happens to be an officer in another state is visiting the District as a tourist and is assaulted.
  5. The Executive Director agreed that the CCRC recommendation would provide for a jury trial whenever the complainant is a law enforcement officer, whether or not uniformed or on duty. The Executive Director said that CCRC would review the current draft definition of “law enforcement officer” to see if it could be amended to be clearer and that a clear definition may curtail some of these factual disputes cited by OAG as possible concerns—for example whether a probation officer is covered.
- iv. Regarding the second comment:
1. The Executive Director asked for clarification as to whether OAG’s comment was meant to be limited to inchoate offenses or whether OAG was broadly stating there should be no exceptions that would provide the right to a jury trial for an offense punishable by 90 days or less, including the circumstances specified in RCC § 16-705(b)(1)(C) – (E) (concerning police complainant, sex offender registration requirements, and potential immigration consequences).
  2. PDS objected to changing the RCC recommendation in a way that would continue the long-standing practice of charging an attempted offense instead of a completed offense solely to deny a defendant a right to a jury trial.
  3. OAG stated that its position is that if inchoate charge is punishable by less than 90 days, it should not be jury demandable.
  4. OAG said that it is not recommending any narrowing of the right to a jury trial that exists under current law for immigration consequences. For example, if a person faces deportation, they have the right to a jury under current District case law.
    - I. The Executive Director noted that the RCC provision goes beyond the recent D.C. Court of Appeals opinion in *Bado* and expands the right to a jury to include any offense that might be deportable for any defendant, without requiring disclosure that a particular defendant is subject to deportation.
    - II. OAG indicated that it will need to review the issue further.

5. The Executive Director referred to the rationales for the provision that are provided in the report, including the value of direct community participation in the criminal justice adjudication process. He also noted that most jurisdictions, 38, provide a jury trial for all crimes, no matter how small. And several others have jury demandability provisions more generous than the District currently does.
6. Professor Butler states that he hopes AG Racine will give this issue more serious attention, especially in the current climate.
7. USAO indicated that it would also review the issues raised by OAG regarding the relevant standards if the fact that the complainant is a law enforcement officer were to determine jury demandability. However, for now, there was no comment beyond the written comments.
8. Ms. Gajwani asked for clarification of the relevant legislative history, particularly whether the Council's focus has been on the consequences of conviction or the nature of the conduct.
  - I. PDS stated that the misdemeanor streamlining legislation that removed the right to a jury trial for many offenses was intended to conserve judicial resources and not a determination that the conduct is less serious. PDS stated that since then, there have been instances in which the Council found that it was important for the community to be the factfinder and set the offense penalty with the objective of ensuring a jury trial.
  - II. The Executive Director offered to provide citations to the relevant legislative history.
  - III. The Executive Director provided the revision of the District's Assault on a Police Officer ("APO") offense as a recent example. In the committee report for the NEAR Act, one rationale used by the Council was that, where the complainant is a police officer, providing a jury trial removes the burden on the court to state specific credibility findings that could adversely affect an officer's career. This rationale applies to all officers at all times. The Executive Director also noted that in the wake of the NEAR Act passage there was a sharp decline in APO charges and comparable uptick in simple assault charges, which suggests that government altered its charging practices to avoid the jury requirement the Council wanted.
  - IV. The Executive Director explained that misdemeanor streamlining by the Council reflected a very different criminal justice environment. The goal was to conserve resources going into misdemeanor prosecutions so they could be directed to felony prosecutions, at a time when the crime rate was much higher and there were many more

felonies. Its aims were expedience and pragmatism, not to aiding justice or ensure the protection individual rights.

V. The Executive Director said he disagreed with the OAG assertion that a corollary of the agency's mandate to issue recommendations for proportionate punishment is that persons facing the same imprisonment penalties should have the same right to a jury trial. While punishment has been a primary factor, it has not been and should not be the only consideration in determining whether an offense is serious enough to require a jury. The court's opinion in *Bado* is one clear example of an exception to the current six-month "rule," providing a jury trial for crimes with a lower amount of possible incarceration. The RCC jury demandability provision codifies other instances in which a jury is warranted, if not required.

VI. Professor Braman stated that expanding the right to a jury trial (or, rather ending the abrogation of that right) furthers the justice by fundamentally improving the legitimacy of the system. Professor Braman noted that the right to a jury is enjoyed by both the prosecution and the defense.

9. Professor Butler urged ending the restrictions on the right to a jury trial from the streamlining era to bring the District in line with other states and the stated will of the Council in recent legislation.

b. The group discussed a written comment by the USAO on the First Draft of Report #53, requesting that the CCRC revise commentary to make clear the CCRC's intent, as articulated at the May 2020 Advisory Group meeting, to have an increased reliance on consecutive sentences, rather than concurrent sentences.

i. The Executive Director clarified that, during last month's meeting, CCRC did not intend to convey that the RCC recommendations are designed to spur an increased reliance on consecutive sentencing. Similar to current law, there are few places in the RCC that require consecutive sentencing, but generally the RCC and current law instead defer to the court's discretion to sentence consecutively or concurrently under D.C. Code § 23-112. At the last meeting the Executive Director said he tried to emphasize the power of consecutive versus concurrent sentencing under current law and the RCC, and that power should be considered when assessing whether the law provides adequate punishment for criminal behavior. A punishment for a particular charge may be lowered in the RCC but if it commonly occurs with another chargeable offense and that other offense could be run consecutively, then in effect the judge has the power to impose a longer term of imprisonment. Looking just at a single penalty for a single charge doesn't tell the whole story. The RCC seeks to provide adequate punishment for criminal behavior overall, even the worst forms, but doesn't rely on just one "lead" charge to do so. The RCC may result in changes in how courts exercise their discretion over concurrent

- and consecutive sentencing, but the CCRC has no position on whether that will be justified in a particular case or broadly for all cases.
- ii. USAO said that, in last month's meeting the Council representative suggested that the RCC's organization may involve a shift in mentality from current practice and relying on a lead charge and that might result in more consecutive sentencing.
  - c. The group discussed a written comment by the USAO on the First Draft of Report #52 opposing the elimination of mandatory minimum sentences (besides first degree murder, addressed in a prior comment).
    - i. The Executive Director asked USAO to clarify its position on mandatory minima, particularly whether it opposes reducing – as opposed to fully eliminating – the minima in current District law.
      - 1. USAO said it would need to review the matter further.
    - ii. The Executive Director said that CCRC wants its recommendations to be supported by evidence. He noted that one of the USAO comments regarding its recommendation to maintain mandatory minimum sentences is that the RCC's proposal does not adequately deter either possession of firearms or the use of firearms during the commission of offenses against others. The Executive Director said that in this instance and more generally when any Advisory Group member makes assertions about deterrence effects it provide any supporting research evidence. He said that comments about deterrence, unlike proportionality determinations, are making empirical claims and any supporting evidence should be provided. He said that the CCRC has shared with the Advisory Group research, including a Department of Justice publication from 2016, summarizing research and flatly stating that increasing the severity of punishment does little to deter crime, and that a much more powerful deterrence is the certainty of being caught. The American Law Institute's recent Sentencing recommendations have a similar assessment of imprisonment sentences. The impact of the RCC recommendations on public safety are critical and at the front of everyone's minds, but there needs to be evidence about any such claims. If Advisory Group members are aware of evidence that runs counter to the research the CCRC has shared, it would be helpful. The more CCRC can connect research with statements about outcomes, the better, and it will help inform the Council and Mayor about the impact of the draft legislation.

### **III. Adjournment.**

- a. The Executive Director asked if Advisory Group members had any more questions or concerns to discuss about the agenda items. There being no response, the meeting was adjourned at 11:32 a.m.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, JULY 1, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, July 1, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Access code:** 160 852 3887.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments On:
  - (A) Third Draft of Report #41 - Ordinal Ranking of Maximum Imprisonment Penalties;
  - (B) Second Draft of Report #19 - Homicide Offenses;
  - (C) Second Draft of Report #27 – Human Trafficking and Related Statutes;
  - (D) Second Draft of Report #35 – Cumulative Update to Sections 201-213 of the RCC;
  - (E) Advisory Group Memo #33 - Supplemental Materials to the First Draft of Report #53 and the Second Draft of Report # 19;
  - (F) Advisory Group Memo #34 - Supplemental Materials to the Second Draft of Report #27;
  - (G) Advisory Group Memo #35 - Supplemental Materials to the Second Draft of Report #35;
  - (H) First Draft of Report #53 – Pinkerton Liability;
  - (I) First Draft of Report #54 – Prostitution and Related Statutes;
  - (J) Advisory Group Memo #36 – Supplemental Materials to the First Draft of Report #54;
  - (K) First Draft of Report #55 – Failure to Appear and Violation of Conditions of Release Offenses;

- (L) First Draft of Report #56 – Panhandling;
- (M) First Draft of Report #57 – Second Look;
- (N) First Draft of Report #58 – Developmental Incapacity Defense;
- (O) Advisory Group Memo #37 – Supplemental Materials to the First Draft of Report #58; and
- (P) First Draft of Report #59 – Endangerment with a Firearm.

III. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:

- (A) First Draft of Report #60 – Execution of Public Duty, Lesser Harm, and Temporary Possession Defenses;
- (B) First Draft of Report #61 – Abuse of Government Power General Enhancement;
- (C) First Draft of Report #62 – Impersonation of a District Official.

IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### MINUTES OF PUBLIC MEETING

**WEDNESDAY, JULY 1, 2020, at 10:00 AM  
WASHINGTON, D.C. 20001**

On Wednesday, July 1, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 160 625 4909). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

Gabrielle Green (Attorney Advisor)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of Public Defender Service for the District of Columbia)

Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)

Katerina Semyonova (Visiting Attendee of Public Defender Service for the District of Columbia)

Dave Rosenthal (Designee of the D.C. Attorney General's Office)

Elana Suttentberg (Visiting Attendee of United States Attorney for the District of Columbia)

Seema Gajwani (Visiting Attendee of the D.C. Attorney General's Office)

Don Braman (Council appointee)

Nishant Keerikatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

## **I. Welcome and Announcements.**

- a. The Executive Director noted that the Council recently passed the Comprehensive Policing and Justice Reform Emergency Amendment Act of 2020. Two of the proposals track prior CCRC recommendations: providing a right to a trial by jury when the alleged victim of an assault is a law enforcement officer and repealing the offense for neglect to make an arrest.
- b. The Executive Director noted that the FY 21 budget passed by the Committee on the Judiciary and Public Safety makes CCRC a permanent agency with a due date for the agency's recommendations of March 30, 2021. This is a strong indication the Council is serious about moving forward with comprehensive code reform. The next budget vote is scheduled for July 7, 2020. While the legislation is not final, the agency is reviewing its work sequencing to maximize productivity with a March 30, 2021 deadline. CCRC welcome input on the sequencing of our work between now and March 30, 2021.
- c. The Executive Director noted that comments on outstanding reports are due July 20, 2020. After that, CCRC may take a break from the stream of new draft reports to the Advisory group. Remaining recommendations need to be developed to address obstruction of justice offenses, public order offenses, and codification of remaining general defenses.
- d. The Executive Director noted that, per his email yesterday, regular Advisory Group meetings on the first Wednesday of every month through December 1, 2021 from 10am to noon have been tentatively scheduled in anticipation of agency extension. Members are asked to please notify the Executive Director if a member has a regular conflict with continuing this time.
- e. The Executive Director noted 2019 data from the Superior Court of the District of Columbia is forthcoming, hopefully in coming weeks.

## **II. The Advisory Group discussed the written comments on the First Draft of Report #54, Prostitution and Related Statutes:**

- a. The group discussed an OAG comment on page 4 of its comments regarding the overlap between the RCC prostitution and patronizing prostitution offenses. OAG's comment proposed a new subparagraph for each offense.
  - i. OAG explained that its proposed language is intended to distinguish between buying and selling conduct. OAG stated that "receiving" anything of value in the RCC prostitution offense necessarily implies someone "giving" anything of value in the RCC patronizing prostitution offense, and vice versa.
  - ii. USAO stated it believes the word "provided" in OAG's proposed language might suggest that the offenses are being narrowed to require that a sexual act or sexual contact be completed. USAO wants the drafting to remain clear that a sexual act or sexual contact does not have to occur for liability. USAO also stated that the name of the patronizing prostitution offense helps distinguish the offense from the prostitution offense, as well as the more serious penalty.
  - iii. The group discussed several drafting solutions that aimed to ensure the correct scope of conduct is covered, including:
    1. Sting operations involving undercover officers;



2. Conduct involving persons under age 18; and
  3. Third party payors that do not engage in or solicit to engage in the sexual conduct.
- b. The Executive Director explained that the current D.C. Code prostitution and solicitation statute, which has simpler drafting, does not distinguish between prostitution and patronizing. The RCC separates and punishes patronizing more severely based on the different blameworthiness of the conduct, consistent with a Nordic model.
- i. OAG stated that it agrees the offenses should be separated but believes the level of punishment should be the same.
  - ii. CCRC staff explained that simplifying the language as other states have done may mean more ambiguity and less clarity about who is doing what and when.
  - iii. None of the members objected to the CCRC keeping a comparatively more complicated drafting that accounts for multiple types of prohibited conduct in the prostitution and patronizing prostitution statutes.
- c. CCRC invited members to submit more proposed solutions to this thorny drafting challenge.

### **III. The Advisory Group discussed the written comments on the Second Draft of Report #35, Cumulative Update to Sections 201-213;**

- a. The CCRC asked for clarification of an OAG recommendation to strike paragraph (c)(2) of RCC § 22E-204, regarding the legal causation requirement. Specifically, the CCRC asked how to reconcile the recommendation to require only reasonable foreseeability with another OAG comment suggesting that liability remain in a hypothetical involving basketball rivals. OAG's written comments had indicated that when a basketball player makes a game winning shot, knowing that the opponent will beat his teammates, the player is not guilty of assault because he has not satisfied the requirements of accomplice liability. CCRC staff noted that in this hypothetical, the opponent's volitional act was reasonably foreseeable, but it would be unjust to hold the player liable for the opponent's conduct.
- i. OAG stated paragraph (2) does not appear to affect outcomes. In the basketball hypothetical, the person does not satisfy the elements of assault.
  - ii. CCRC staff explained that the person in the basketball hypothetical does complete all of the elements of an offense, because he engaged in conduct knowing that bodily injury would result.
  - iii. OAG stated that under its recommendation, when there is an intervening volitional act, the actor may only be held liable if he or she satisfies the requirements of accomplice liability.
  - iv. OAG stated that it is preferable to avoid asking factfinders to decide whether something is "just;" their role is to decide the facts and apply the law, not to engage in jury nullification by substituting their judgment as to what conduct is criminal. OAG stated that if the term "justly" is retained the causation statute, the term should be defined to provide clear guidance on the requirements for liability.
- b. The CCRC asked for clarification of an USAO recommendation to define causation as "not too attenuated." The CCRC noted that

USAO's recommendation states that the passage of time or attenuation may negate legal causation, even when an intervening act is reasonably foreseeable. The CCRC staff asked what factors would determine whether volitional conduct of another was attenuated or not? CCRC also asked what factors group members think should determine whether an actor may "justly" be held responsible for the volitional act of others. For example, if the RCC upholds *Fleming*, 224 A.3d 213 (D.C. 2020) (en banc) how should factfinders determine whether someone is justly responsible or whether conduct is not too attenuated?

- i. USAO and OAG did not offer any specific suggestions, but indicated they will review the issue.
- c. The CCRC asked for clarification of a PDS recommendation. Specifically, the CCRC asked whether it is PDS's position that intervening volitional acts always negate legal causation, unless the government proves beyond a reasonable doubt that the intervening act constituted self-defense or defense of others.
  - i. PDS stated that this is its position.
  - ii. CCRC staff offered a hypothetical in which A shoots B and B dies due to negligent medical care. Would the volitional act of the physician who performs the negligent medical care negate legal causation? CCRC staff noted that under current law, negligent medical care does not negate legal causation.
    - 1. PDS stated that A could be convicted of attempted murder or assault with intent to kill, but should not be deemed to have legally caused B's death.
  - iii. CCRC staff offered a hypothetical in which A shoots B with intent to kill and, in an attempt to escape, B injures themselves by tripping and falling or by speeding away in a car.
    - 1. PDS stated the fall is not an intervening volitional act, it's an independent volitional act. CCRC staff acknowledged that it had not defined the term "volitional act," but that the term is broad, and would include this type of conduct.
    - 2. PDS stated that B's conduct in this hypothetical is similar to acting in self defense.
- d. The Executive Director noted that they may follow up with CRAG members individually about this issue. The current draft is intended to be consistent with *Fleming*, however that case addressed special circumstances and is not binding law on causation generally, which is what the RCC recommendation addresses.

**IV. The Advisory Group did not have any additional comments on the other written comments included in the agenda.**

**V. The Advisory Group discussed the First Draft of Report #60, Execution of Public Duty, Lesser Harm, and Temporary Possession Defenses; First Draft of Report #61, Abuse of Government Power General Enhancement, and First Draft of Report #62 – Impersonation of a District Official:**

- a. The Executive Director noted some typographical errors in the First Draft of Report #61 that will be corrected and recirculated.
- b. USAO noted the title of the Impersonation of District Official provision may be confusing because it makes reference to both District and federal officials.

**VI. Adjournment.**

- a. There being no further questions from Advisory Group members concerning the draft reports now under review, the meeting was adjourned at 11:30 a.m.



**D.C. Criminal Code Reform Commission**  
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(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, AUGUST 5, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, August 5, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Access code:** 160 248 5169.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments On:
  - (A) First Draft of Report #60 – Execution of Public Duty, Lesser Harm, and Temporary Possession Defenses;
  - (B) First Draft of Report #61 – Abuse of Government Power General Enhancement;
  - (C) First Draft of Report #62 – Impersonation of a District Official.
- III. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

### **MINUTES OF PUBLIC MEETING WEDNESDAY, AUGUST 5, 2020, at 10:00 AM**

On Wednesday, August 5, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 160 625 4909). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisory)

Gabrielle Green (Attorney Advisor)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)

Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)

Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)

Seema Gajwani (Visiting Attendee of the Office of the Attorney General)

Elana Suttentberg (Visiting Attendee of United States Attorney for the District Columbia)

Nishant Keerikatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

Don Braman (Council appointee)

#### **I. Welcome and Announcements.**

- a. Staff noted the Council completed budget legislation for the coming fiscal year (FY 21) that provides for a 6 month extension of the agency's deadline to issue its draft recommendations, to March 31, 2021. The budget legislation also removes this agency's sunset date, making it a permanent agency.

- b. CCRC continues to review how we can maximize the quality and quantity of the agency recommendations given this development and the ongoing constraints of the Covid-19 public health emergency. If Advisory Group members have advice about this, please contact me.
- c. Although the work of this Advisory Group will formally be complete when we issue our recommendations to the Council and Mayor, by March 31, 2021, CCRC asks Advisory Group members to save the later meeting dates in 2021 on your calendar, for now, as it may be helpful for this group to convene for further discussions stemming from our years of joint work on the recommendations.
- d. CCRC staff is taking a brief break from the stream of new draft recommendations. However, last week we issued Advisory Group Memo #38, providing Updated Court Statistics. The main difference in this analysis as compared to Memo #28 is that this includes data for 2019; breaks out different year groupings (the largest timespan being 2010-2019); and presents some new information on consecutive and concurrent sentencing. Please note the data limitations described in the memo. In the coming months we hope to provide analyses that take the last-in-time data from sentencing history, as well as an analysis based on 72-hours after initial imposition, which will hopefully have fewer data errors since that time-period allows time for the court's quality review process to run. If Advisory Group members discover apparent errors in the sheet, please let staff know.
- e. In September, CCRC will issue a small batch of new reports concerning new offenses and defenses. We also continue to work on a comprehensive update to all recommendations that will address the comments we have received.

**II. Discussion of written comments on the First Draft of Report #60, Execution of Public Duty, Lesser Harm, and Temporary Possession Defenses; the First Draft of Report #61, Abuse of Government Power General Enhancement; or the First Draft of Report #62 – Impersonation of a District Official.**

- a. Staff noted that several comments were timely received, but the CCRC had no follow-up questions at this time.
- b. Advisory Group members were asked if they had any comments or discussion on the agenda items. No member responded.

**III. Adjournment.**

- a. This meeting via WebEx was adjourned at 10:20 a.m., Wednesday September 2, 2020 at 10:00 am.



**D.C. Criminal Code Reform Commission**  
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**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, SEPTEMBER 2, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, September 2, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Access code:** 160 515 4634.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Memorandum:
  - (A) Advisory Group Memo #38 – Statistics on District Adult Criminal Charges and Convictions.
- III. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

### **MINUTES OF PUBLIC MEETING WEDNESDAY, SEPTEMBER 2, 2020, at 10:00 AM**

On Wednesday, September 2, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 160 515 4634). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)

Dave Rosenthal (Designee of the Attorney General of the District of Columbia)

Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)

Seema Gajwani (Visiting Attendee of the D.C. Attorney General's Office)

Elana Suttenger (Visiting Attendee of the Office of the United States Attorney for the District Columbia)

Nishant Keerikatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

Don Braman (Council appointee)

Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)

#### **I. Welcome and Announcements.**

- a. The Executive Director noted that Attorney Advisor Gabrielle Green recently resigned and will be missed. To fill the vacancy CCRC is conducting a search for a social scientist to review literature and analyze data. Advisory Group members are asked to please share the vacancy announcement with their networks.



- b. The next meeting will be held on Wednesday October 7, 2020 at 10:00 a.m. via WebEx.
- c. In September, CCRC will issue a small batch of new reports concerning new offenses and several general defenses, including self-defense. Advisory Group members will have about 4 – 6 weeks to provide written comments if they wish.
- d. CCRC is also continuing to work on a comprehensive update to all recommendations that will address the comments recently received. The agency hopes to issue that update around the new year.
- e. The agency asks that Advisory Group members review all recommendations and schedule a meeting with CCRC staff to discuss their top priorities and remaining concerns. The agency will send final recommendations to the Council and Mayor early next year, so the coming months are the final chance to make changes before the recommendations are released.

## **II. The Advisory Group discussed Advisory Group Memo #38 – Statistics on District Adult Criminal Charges and Convictions.**

- a. The Executive Director noted the main differences between Memo #38 and the prior version in Memo #28, including the inclusion of data from 2019; new yearly groupings of data, including a 10-year span for 2010 to 2019; and new analysis of consecutive and concurrent sentencing.
- b. The Executive Director noted that it is limited what we can infer and the dataset includes a number of assumptions detailed in the data cleaning methodology in the memo. For example, when the field designating a consecutive or concurrent sentence is left blank, deliberately or erroneously, the court system records a consecutive sentence, as if the court did not specify.
- c. The Executive Director noted that the current first-in-time data set appears to include a number of illegal sentences. In the coming months the agency hopes to gain two new datasets that will do better at screening out such sentences. The difference will be the time of the data, at the 72-hour mark (after quality control reviews the judgment and commitment orders), and last-in-time (after appeals, changes in disposition, and sealing) sentencing disposition in the record.
- d. If Advisory Group members have questions beyond CCRC's expertise, we have contracted with a data scientist who may be able to answer, though there may be some time lag.
- e. The USAO Visiting Attendee asked whether attempts are entered as completed offenses.
  - i. The Executive Director stated that the in the hidden columns specify attempt or non-attempt, however, the aggregate columns do not distinguish between attempts and non-attempts.
- f. USAO asked whether a case involving multiple counts appears under each charge or only the lead charge.

- i. The Executive Director stated that the agency's analysis is organized by charge and not by case. Other data analyses, such as Bureau of Justice Statistics (BJS) analysis of state time-served that was previously distributed, typically include only the lead charge.
- g. OAG asked why there is a designation for "at least 75%."
  - i. The Executive Director noted that there are designations for other ranges such as > 50%. He stated that this level of approximation is required for some entries because the data use agreement with the court prevents the agency from reporting out a certain level of detail, even though the underlying information is publicly available. For example, the cell-suppression provision in the agreement does not allow the agency to state or otherwise reveal the precise number of charges when there is a small total number of charges under 20.
- h. The Executive Director noted a few tips for reading the data:
  - i. Some offenses have multiple court codes and, therefore, multiple rows, so it good to look at nearby citations. This is sometimes helpful because it shows which version of the offense is there and sometimes unhelpful because it makes it more difficult to sort and understand the data.
  - ii. When there are few charges or few convictions, please be wary of the highest and lowest sentences. A single error such as entering months as days may create a very misleading impression for the sentence distribution at the top and bottom of the range.

### **III. Adjournment.**

- a. There being no further questions from Advisory Group members, the meeting was adjourned at 10:45 a.m.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
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**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, OCTOBER 7, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, October 7, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Event number / Access code:** 172 159 9924.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Draft Reports Under Current Review:
  - (A) First Draft of Report #63 – Misrepresentation as a District of Columbia Entity;
  - (B) First Draft of Report #64 – Allowing Dogs To Go At Large;
  - (C) First Draft of Report #65 – Contributing to the Delinquency of a Minor;
  - (D) First Draft of Report #66 – Defense of Self, Others, or Property; and
  - (E) First Draft of Report #67 – Entrapment, Duress, and Mental Disease or Defect Defenses.
- III. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001  
(202) 442-8715    [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

**MINUTES OF PUBLIC MEETING  
WEDNESDAY, OCTOBER 7, 2020, at 10:00 AM**

On Wednesday, October 7, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 172 159 9924.). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

**Commission Staff in Attendance:**

Richard Schmechel (Executive Director)	Rachel Redfern (Senior Attorney Advisor)
Jinwoo Park (Senior Attorney Advisor)	Patrice Sulton (Senior Attorney Advisor)

**Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)	Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)
Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)	Dave Rosenthal (Designee of the Attorney General of the District of Columbia)
Elana Suttenger (Visiting Attendee of the United States Attorney's Office for the District Columbia)	Seema Gajwani (Visiting Attendee of the Office of the Attorney General of the District of Columbia)
Don Braman (Council appointee)	Paul Butler (Council appointee)

**I. Welcome and Announcements.**

- a. The deadline for written comments on outstanding draft reports is November 9.
- b. The Executive Director noted the CCRC is continuing to work on a comprehensive update to all recommendations that will address the comments we have received. We hope to issue that update in December.

- c. Tomorrow, the Executive Director will send out an updated compilation of revised statutes to correct an error in the September 28<sup>th</sup> version (which omitted the definition of “deadly force”).

**II. The group discussed the First Draft of Report #63, Misrepresentation as a District of Columbia Entity.**

- a. OAG asked whether the language “with intent to receive a personal or business benefit of any kind” includes benefits conferred to another person.
  - i. The Executive Director said that the phrase in question was to be construed broadly.
- b. PDS asked about the meaning of the phrase “lawful authority” and offered a hypothetical in which someone uses their personal initials “D.C.”
  - i. The Executive Director confirmed that the language is intended to include only authority as a District of Columbia representative and agreed that the drafting could be improved to clarify the link between the intent to deceive and the lawful authority.
- c. OAG asked about misrepresentations that include emblems but do not include “D.C.,” such as fake badges that say, “Metropolitan Police Department.”
  - i. The Executive Director explained that neither the current statute nor the revised statute will reach that conduct, however, there may be fraud liability.

**III. The group discussed the First Draft of Report #64, Allowing Dogs To Go At Large.**

- a. OAG stated that according to its records there have only been 12 arrests in 10 years and only one that went to trial. He said that seems to support that the provision is unnecessary and reliance on the DCMR provision may be sufficient.
- b. OAG noted that D.C. Code § 22-1311 also includes authority for the pound master to euthanize a dangerous animal and asked whether that is covered in the DCMR provision or needs to be kept.
  - i. The Executive Director stated that he believed, but CCRC will double-check, that the DCMR provisions or D.C. Code title 8 chapter 19 provide overlapping authority for destruction of a dangerous animal .

**IV. The group discussed the First Draft of Report #65, Contributing to the Delinquency of a Minor.**

- a. PDS asked about chronic truancy provision and when it would apply.
  - i. The Executive Director explained that the culpable mental state in the revised statute requires more awareness about the chronic nature of the truancy than the current statute.
  - ii. CCRC staff clarified that the language is not intended to include conduct that precedes the 10<sup>th</sup> day of truancy.
- b. USAO asked about the meaning of “act of civil disobedience.”

- i. The Executive Director said that the term is undefined in the RCC as it is in the current D.C. Code, but would appear to clearly include political speech.
- c. PDS asked whether religious objections to compulsory education are included.
  - i. CCRC staff noted that a parental discipline defense may apply, and that the definition of “chronic truancy” requires the lack of a legitimate excuse.
  - ii. OAG noted that there are provisions for home schooling under D.C. attendance laws.
- d. USAO asked whether civil disobedience includes conduct that also constitutes a crime, and why civil disobedience should be an exception only to this crime and not others.
  - i. PDS noted that many acts of civil disobedience are criminal and gave the example of a sit in at a segregated lunch counter or the mayor’s office (political speech).
  - ii. The Executive Director explained that the exception applies only to the contributing to delinquency offense and not to the other criminal charge.
- e. Professor Butler stated that this crime should not exist because it addresses a problem that is better addressed outside the criminal justice system. Women are more likely to be charged with this offense than men. There is no evidence that this kind of criminalization is an effective way of keeping kids in school.
- f. PDS asked why the offense shouldn’t merge with revised abuse and neglect statutes.
  - i. The Executive Director noted that the RCC abuse and neglect statutes, unlike other crimes like assault, require a duty of responsibility between the actor and the complainant and are penalized higher than comparable conduct by an actor who has no such duty to the complainant. In that sense, the abuse and neglect statutes do already take into account the special duty of care. He said that CCRC will examine merger as to those offenses further.
- g. USAO asked whether a person can contribute to the delinquency of a minor under 14 years of age, and relatedly, whether a person can contribute to delinquency even if the minor *cannot* be charged.
  - i. The Executive Director explained that the developmental maturity defense, which applies categorically to children under 12, is not a jurisdiction provision. While there may be a complete defense, the conduct of an under 12 person still facially may meet the elements of an offense. The revised statute subsection (d) also specifically also states that an actor may be prosecuted even though the minor has not been subjected to delinquency proceedings. The CCRC will review commentary to make sure it sufficiently notes person can be convicted of contributing to delinquency even if the minor is not charged under the developmental incapacity defense.

**V. The group did not have any comments at this time on the First Draft of Report #66, Defense of Self, Others, or Property or on the First Draft of Report #67, Entrapment, Duress, and Mental Disease or Defect Defenses.**

**VI. Adjournment.**

- a. There being no further questions or comments the meeting was adjourned at 11:02 a.m.
- b. The next meeting will be held on November 4, 2020, at 10:00 a.m. The CCRC welcomes any individual questions in the interim.



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, NOVEMBER 4, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, November 4, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Event number / Access code:** 172 181 6573.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Draft Reports Under Current Review:
  - (A) First Draft of Report #63 – Misrepresentation as a District of Columbia Entity;
  - (B) First Draft of Report #64 – Allowing Dogs To Go At Large;
  - (C) First Draft of Report #65 – Contributing to the Delinquency of a Minor;
  - (D) First Draft of Report #66 – Defense of Self, Others, or Property; and
  - (E) First Draft of Report #67 – Entrapment, Duress, and Mental Disease or Defect Defenses.
- III. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).





## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### **MINUTES OF PUBLIC MEETING WEDNESDAY, NOVEMBER 4, 2020, at 10:00 AM**

On Wednesday, November 4, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 172 181 6573). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

Margarita Bronshteyn (Social Scientist)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)

Don Braman (Council appointee)

Dave Rosenthal (Designee of the Attorney General of the District of Columbia)

Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)

Seema Gajwani (Visiting Attendee of the Office of the Attorney General of the District of Columbia)

Elana Suttenger (Designee of the Acting United States Attorney's Office for the District Columbia)

#### **I. Welcome and Announcements.**

- a. Elana Suttenger has been appointed the designee to the Advisory Group by the Acting U.S. Attorney for the District of Columbia. The CCRC thanks former designee Renata Kendrick Cooper for her years of work with the agency and formally welcomes Elana Suttenger.
- b. The Executive Director introduced Margarita Bronshteyn, who recently joined CCRC as a social scientist.

- c. The Executive Director noted that the deadline for written comments on outstanding draft reports is November 9.
- d. The Executive Director noted the CCRC is continuing to work on a comprehensive update to all recommendations that will address the comments we have received. The agency expects to issue that update in December.
- e. The next Advisory Group meeting is December 2, 2020, at 10:00a.m.

**II. The group discussed the First Draft of Report #65, Contributing to the Delinquency of a Minor.**

- a. OAG said further clarification about criminal liability for providing alcohol to a minor may be necessary. A child's possession or consumption of alcohol may not be construed as a criminal offense (D.C. Code § 25-1002).
  - i. The Executive Director said that, although the current statute's characterization isn't entirely clear the commentary notes the CCRC position that D.C. Code § 25-1002 establishes an offense but limits the prosecutorial jurisdiction for bringing a charge against persons under 21. He said that staff would reevaluate the drafting but welcomed Advisory Group comments.
  - ii. USAO noted that the drafting solution used here, whatever it may be, might also apply to the Developmental Incapacity Defense, a point that USAO previously raised as needing clarification. USAO did not offer specific draft language at the time.

**III. The group did not have any comments at this time on the First Draft of Report #63, Misrepresentation as a District of Columbia Entity; the First Draft of Report #64, Allowing Dogs To Go At Large; the First Draft of Report #66, Defense of Self, Others, or Property; or the First Draft of Report #67, Entrapment, Duress, and Mental Disease or Defect Defenses.**

**IV. Adjournment.**

- a. There being no more questions or concerns raised by the Advisory Group, the meeting was adjourned at 10:35a.m.



**D.C. Criminal Code Reform Commission**  
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**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, DECEMBER 2, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, December 2, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Event number / Access code:** 172 775 9767.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments on:
  - (A) First Draft of Report #63 – Misrepresentation as a District of Columbia Entity;
  - (B) First Draft of Report #64 – Allowing Dogs To Go At Large;
  - (C) First Draft of Report #65 – Contributing to the Delinquency of a Minor;
  - (D) First Draft of Report #66 – Defense of Self, Others, or Property; and
  - (E) First Draft of Report #67 – Entrapment, Duress, and Mental Disease or Defect Defenses.
- III. Discussion of Timing and Framing of the March 2021 Advisory Group Vote to Issue Recommendations to the Council and Mayor
- IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### **MINUTES OF PUBLIC MEETING WEDNESDAY, DECEMBER 2, 2020, at 10:00 AM**

On Wednesday, December 2, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 172 775 9767). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Patrice Sulton (Senior Attorney Advisor)

Margarita Bronshteyn (Social Scientist)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)

Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)

Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)

Dave Rosenthal (Designee of the Attorney General of the District of Columbia)

Elana Suttenger (Designee of the Acting United States Attorney's Office for the District Columbia)

Seema Gajwani (Visiting Attendee of the Office of the Attorney General of the District of Columbia)

Don Braman (Council appointee)

Nishant Keerikkatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

\*Note: Paul Butler (Council appointee) was unable to connect due to technical issues

#### **I. Welcome and Announcements.**

- a. The Executive Director said that the agency expects to release a cumulative update at the end of December. It will include an appendix addressing each of the written

comments received since the last cumulative update and a red-inked version of the compiled statutes showing changes since the last draft.

**II. Discussion of Advisory Group Written Comments on First Drafts of Reports #63-67**

- a. There were no further questions or discussion by the Advisory Group.

**III. Discussion of Timing and Framing of the March 2021 Advisory Group Vote to Issue Recommendations to the Council and Mayor.**

- a. The Executive Director said that written comments on the update issued in December will be due in late January. The CCRC plans to respond to comments and issue the final recommendations in late February or early March.
- b. The Executive Director explained that the agency expects to hold a single vote on the statutory language and commentary. The record that is sent to the Council by March 31, 2021 will include written commentary from Advisory Group members, CCRC's responses, and court statistics.
- c. In anticipation of a vote, the CCRC asks that Advisory Group members hold open three mornings in March, including March 24, 2021. The Executive Director will send an email about scheduling to ensure all voting members are able to participate.
- d. The CCRC aims to deliver this package with as much support as possible. The CCRC welcomes input from Advisory Group members on topline priorities and concerns.

**IV. Adjournment.**

- a. The Executive Director said that the next Advisory Group meeting is January 6, 2021, at 10:00a.m.
- b. There being no more questions or concerns raised by the Advisory Group, the meeting was adjourned at 10:25 a.m.



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**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, JANUARY 6, 2021 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, January 6, 2021 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Event number / Access code:** 180 216 5030.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Draft Reports and Memoranda Under Advisory Group Review:
  - (A) First Draft of Report #67 – December 2020 RCC Cumulative Update.
  - (B) Advisory Group Memorandum #39 - Supplemental Materials to the First Draft of Report #67.
  - (C) Fourth Draft of Report #41 – Ordinal Ranking of Maximum Imprisonment Penalties.
  - (D) Advisory Group Memorandum #40 - Statistics on District Adult Criminal Charges and Convictions.
- III. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



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**MINUTES OF PUBLIC MEETING  
WEDNESDAY, JANUARY 6, 2021, at 10:00 AM**

On Wednesday, January 6, 2021, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 180 216 5030). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Margarita Bronshteyn (Social Scientist)

**Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)

Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)

Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)

Dave Rosenthal (Designee of the Attorney General of the District of Columbia)

Elana Suttentberg (Designee of the Acting United States Attorney's Office for the District Columbia)

Seema Gajwani (Visiting Attendee of the Office of the Attorney General of the District of Columbia)

Don Braman (Council appointee)

Nishant Keerikkatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

Paul Butler (Council appointee)

**I. Welcome and Announcements.**

- a. The Executive Director recognized the departure of Patrice Sulton from agency staff. The Executive Director thanked Ms. Sulton for all her contributions to the agency and work on the revised criminal code (RCC).

- b. The Executive Director gave an overview of the scope of Advisory Group Memo #40, Statistics on District Adult Criminal Charges and Convictions, issued December 31, 2020, which contains updated court statistics. Due to time constraints, the Executive Director was unable to add discussion of Memo #40 to this month's agenda, but will do so for February's meeting. The Executive Director made three points regarding Memo #40:
  - i. First, the years covered in the data in Memo #40—2010-2019—are the same years that were covered in prior Memo #38, issued July 31, 2020. The Executive Director noted that Memo #40 contains an additional sheet for 2009 data, although that data has been more difficult to clean.
  - ii. Second, the Executive Director stated that the organization of the data in Memo #40 is the same as the organization of the data in Memo #38 with one difference. Memo #38 limited data analysis to the first in time sentence. Memo #40, however, includes two additional sentences: 1) 72 hours after the initial sentence (chosen because it seems to be the end of the period of time for the court's quality assurance process); and 2) the last recorded entry to account for appeals and other changes to sentences. The Executive Director stated that there are some minor differences in analyses of court data in Memo #40 as compared to Memo #38, but they are negligible in the overall picture.
  - iii. Third, the Executive Director stated that the cumulative update to the RCC, Report #68 issued December 24, 2020, did not include penalty recommendations—RCC § 22E-603, Authorized Terms of Imprisonment, and the ordinal ranking of offenses spreadsheet. The Executive Director intends to issue those documents at the end of next week, with a month for the Advisory Group to issue written recommendations.
- c. The Executive Director discussed the timing and framing of the coming months prior to the Advisory Group vote to issue recommendations to the Council and Mayor.
  - i. The Executive Director stated that by statute, the Advisory Group has a month to submit written comments on "draft" recommendations and that the agency's "final" recommendations must be based on such comments that are timely received. The agency's statutory deadline to deliver final recommendations to the Council and the Mayor is March 31, 2021. The Executive Director stated that, per prior discussion, the Advisory Group will have a special meeting on March 24, 2021, for a vote on the agency's final recommendations.
  - ii. Given these statutory requirements, the Executive Director stated that between now and the Advisory Group Vote on March 24, 2021:
    - 1. On or by January 15, 2021, the agency will issue a report with updated RCC § 22E-603, Authorized Terms of Imprisonment, and updated classifications for specific RCC offenses.



2. Advisory Group written comments on Report #68, Cumulative Update to the Revised Criminal Code, are due on January 29, 2021.
  3. The February 3, 2021, Advisory Group meeting will discuss questions on the updated penalty recommendations as well as written comments received on Report #68 (and the statistical analysis in Memo #40).
  4. On or around February 15, 2021 will be the due date for Advisory Group written comments on the updated penalty recommendations.
  5. Staff will issue final recommendations on or by March 10, 2021, two weeks before the scheduled vote.
- iii. The representative from the Attorney General of the District of Columbia (OAG) stated that, due to the national elections and presidential inauguration, the compressed time schedule was particularly difficult, although OAG would meet the required deadlines.
  - iv. The Executive Director acknowledged the large scope of the work and suggested that to maximize the time for review and written comment, the Advisory Group not re-raise concerns in its written comments that have already been addressed. The Executive Director noted that Appendix D2 that accompanied the First Draft of Report #68 highlights and explains all the changes made to the RCC in this cumulative update.
  - v. The representative from the United States Attorney's Office for the District of Columbia (USAO) asked whether, in the next cumulative update, there would be new substantive recommendations. The Executive Director stated that the CCRC wasn't planning to issue additional reports on new topics before the March vote, but that there would be substantive changes to RCC recommendations in the updated penalty recommendations being issued next week, responses to any Advisory Group written comments on the updated penalty recommendations and Report #68, and possibly CCRC-initiated substantive changes to already existing material.

## **II. Discussion of First Draft of Report #68, Cumulative Update to the Revised Criminal Code**

- a. The Executive Director highlighted two items in Advisory Group Memo #39, Supplemental Materials to the First Draft of Report #68, issued December 24, 2020.
  - i. First, as is discussed in the memo, there are two District of Columbia Court of Appeals cases that the agency needs to examine and that may require changes to the RCC—*Fleming v. United States*, 224 A.3d 213, 227 (D.C. 2020), cert. denied, 207 L. Ed. 2d 1059 (2020), pertaining to causation, and *Lucas v. United States*, 240 A.3d 328 (D.C. 2020), pertaining to the current D.C. Code bias enhancement. Agency staff would appreciate any Advisory Group comments on these two cases, particularly *Fleming*.

- ii. Second, as is discussed in the memo and accompanying materials, the RCC no longer has a general effective consent defense in the general part that pertains to certain offenses against persons. Instead, specific offenses have an effective consent defense that is tailored to that particular offense.
- b. The Executive Director asked if the Advisory Group had any questions about or difficulty navigating the materials that comprise Report #68.
  - i. The representative from USAO asked what it meant that RCC § 22E-1203, previously the menacing offense, was now marked as “Reserved.” The Executive Director stated that the previous RCC menacing offense is now wrapped into the RCC threats offense (RCC § 22E-1204) and that Appendix D2 explains this change. The Executive Director stated that “Reserved” is a temporary placeholder for RCC § 22E-1203 and ultimately the offenses in Chapter 12 of the RCC would have to be renumbered if menacing remains part of the threats offense. More generally, the Executive Director stated that “Reserved” is generally such a placeholder in the RCC pending final revisions and renumbering.
  - ii. The representative from the Public Defender Service for the District of Columbia (PDS) asked about the RCC definition of “dwelling.” PDS noted that “at the time of the offense” had been struck from the definition and that the definition now required that the structure “is either designed or actually used for lodging or residing overnight.” PDS noted that the Report #68 stated that this revision was intended to make the definition easier to read, but that it might actually be a substantive change that expands the definition to buildings that were designed for lodging or overnight use but haven’t been used so in a long time. The Executive Director stated it was not intended to be a substantive change and that staff would review it further.
  - iii. The representative from USAO noted that “cosmetic” procedures are now included in the effective consent defense that applies to several of the RCC offenses against persons, such as assault, and asked if the commentary discusses how a “cosmetic procedure” differed from a “medical” procedure. The Executive Director stated that he could review the commentary, but “cosmetic” was included due to the current D.C. Code and RCC definitions of “serious bodily injury” including “disfigurement.” The Executive Director noted there was little DCCA case law discussing disfigurement.
  - iv. The representative from USAO noted that “cosmetic” procedures were not included in the effective consent defense that applies to the lower gradations of the RCC assault offense. The Executive Director stated that is correct because for those lower gradations, an adult can consent to the required type of bodily injury without restriction.

- c. The Executive Director asked if there were further questions on Report #68. There were none. The Executive Director asked the Advisory Group to alert him to problems with the documents, such as missing text.
- d. The representative from the Public Defender Service thanked the staff for the work and through that has gone into the project.

**III. Adjournment.**

- a. The Executive Director said that the next Advisory Group meeting is February 3, 2021, at 10:00 a.m.
- b. There being no more questions or concerns raised by the Advisory Group, the meeting was adjourned at 10:57 a.m.



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**D.C. CRIMINAL CODE REFORM COMMISSION  
NOTICE OF PUBLIC MEETING  
WEDNESDAY, FEBRUARY 3, 2021 AT 10:00 AM  
TELEPHONIC MEETING**

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, February 3, 2021 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Event number / Access code:** 180 506 0172.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Comments Received on Prior Draft Reports:
  - (A) First Draft of Report #68 – December 2020 RCC Cumulative Update.
  - (B) Advisory Group Memorandum #39 - Supplemental Materials to the First Draft of Report #67.
  - (C) Advisory Group Memorandum #40 - Statistics on District Adult Criminal Charges and Convictions.
- III. Discussion of Draft Reports and Memoranda Under Advisory Group Review:
  - (A) First Draft of Report #69 - Cumulative Update to Class Imprisonment Terms and Classification of RCC Offenses.
  - (B) Advisory Group Memorandum #41 - Supplemental Materials to the First Draft of Report #69.
- IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).



## D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

### **MINUTES OF PUBLIC MEETING WEDNESDAY, FEBRUARY 3, 2021, at 10:00 AM**

On Wednesday, February 3, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 180 506 0172). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Margarita Bronshteyn (Social Scientist)

#### **Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)

Don Braman (Council appointee)

Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)

Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)

Elana Suttentberg (Designee of the Acting United States Attorney's Office for the District Columbia)

Dave Rosenthal (Designee of the Attorney General of the District of Columbia)

Paul Butler (Council appointee)

Nishant Keerikkatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

## **I. Welcome and Announcements.**

- a. The Executive Director noted that the CCRC has posted a vacancy announcement for a Senior Attorney Advisor position on the DC Human Resources website.
- b. The Executive Director reminded Advisory Group members that comments on First Draft of Report #69 - Cumulative Update to Class Imprisonment Terms and Classification of RCC Offenses, are due Monday, February 15, 2021.
- c. The Executive Director noted that CCRC staff has begun reviewing the last round of Advisory Group comments to First Draft of Report # 68, and are continuing to make edits accordingly.
- d. The Executive Director noted that Advisory Group Memorandum #40 includes an Appendix G, which does not include new information, but places Superior Court data alongside corresponding RCC offenses and penalty recommendations.
- e. The Executive Director noted that the next Advisory Group meeting is scheduled for March 3, 2021.
  - i. The agenda will include comments received on the First Draft of Report #69 but will also discuss procedural issues pertaining to the March 24 vote on the final package of materials. The Executive Director noted that at present he expects there to be one vote on recommending the package of reforms to the Council and Mayor for consideration and action. All voting members of the Advisory Group may vote to support, oppose, or abstain from the action and a majority approval of voting members is required by statute.
  - ii. The representative from the Office of the Attorney General (OAG) asked how far in advance of the March 24 vote the Advisory Group members will receive the final version. The Executive Director replied that CCRC is planning to provide the final version to the Advisory Group on or by March 10, 2021.
  - iii. The Executive Director noted that this final version will include a red-ink version of the statutes, as well as responses to Advisory Group member comments.

## **II. The Advisory Group discussed First Draft of Report #68 – December 2020 RCC Cumulative Update.**

- a. The Executive Director noted that CCRC staff has reviewed Advisory Group comments, and currently does not have any questions for the group pertaining to any of the comments.
- b. The representative from the United States Attorney's Office stated that it agreed with changing the effective consent defense for sexual assault to a defense instead of an affirmative defense, in agreement with PDS.
- c. The representative for OAG noted that it also agrees that the effective consent defense for sexual assault should be a defense instead of an affirmative defense.

## **III. The Advisory Group discussed Advisory Group Memorandum #40 – Statistics on District Adult Criminal Charges and Convictions:**

- a. The Executive Director noted that the data provided in this memorandum is based on last in time records as opposed to first in time records, and reflects any quality

control changes that the court has made, as well as changes to sentences due to appellate rulings. The Executive Director stated that the CCRC will rely last-in-time statistics going forward. The Executive Director also stated that these updates to the data were relatively minor.

**IV. The Advisory Group Discussed First Draft of Report #69 - Cumulative Update to Class Imprisonment Terms and Classification of RCC Offenses.**

- a. The Executive Director noted that the First Draft of Report #69 includes an updated chart which shows the recommended maximum penalty for each RCC offense. The document notes where there are changes to classification of any given offense.
- b. The Executive Director stated that if Advisory Group members disagree with the classification of an offense, it would be helpful for members to recommend a specific alternate classification and provide a rationale for why the offense should be classified differently.
- c. The representative from OAG noted that the commentary for the penalty classification for robbery states that a two class increase applies when use or display of a dangerous weapon directly or indirectly causes bodily injury. However, the draft statutory language does not clearly specify that this causal nexus is required.
  - i. CCRC staff noted it will review the statutory language to ensure it clarifies that there is a causal nexus requirement between the bodily injury and the display or use of a dangerous weapon.

**V. Adjournment.**

- a. There being no more questions or concerns raised by the Advisory Group on agenda items, the meeting was adjourned at 10:45 a.m.

# Appendix B



## **Appendix B - CCRC Work Plan (2-8-21)**

### **Introduction**

This “CCRC Work Plan (2-8-21)” describes planned activities of the D.C. Criminal Code Reform Commission (CCRC) through the second quarter of FY22 (March 31, 2022) and consists of three main parts:

- Part I, development of reform recommendations through March 31, 2021;
- Part II, ongoing activities supporting the development of recommendations; and
- Part III, work activities after March 31, 2021.

Also, attached is an appendix “Sequence for Review of D.C. Criminal Offenses” (“Offense Sequence”) that describes the criminal statutes for which the CCRC has completed draft reforms for issuance March 31, 2021 and the order in which the agency plans to issue subsequent reform recommendations.

The Work Plan & Offense Sequence guides agency operations, subject to changes by the CCRC Executive Director to better meet the CCRC’s statutory mandate with available resources.

### **Part I. Development of reform recommendations through March 31, 2021.**

Since its inception on October 1, 2016, the primary mission of the CCRC has been the development of comprehensive criminal code reform recommendations for the Council and Mayor.

As of February 2021, the CCRC is on track to issue reform recommendations by the statutory deadline of March 31, 2021 for revised offenses against persons, property offenses, weapon offenses, drug offenses, and multiple public order and drug offenses that correspond to District crimes which cumulatively accounted for over 97% of adult convictions in recent years.

#### *Overview*

The CCRC’s core statutory mandate is to develop comprehensive criminal code reform recommendations that revise the language of the District's criminal statutes to:

- (1) Use clear and plain language;
- (2) Apply consistent, clearly articulated definitions;
- (3) Describe all elements, including mental states, that must be proven;
- (4) Reduce unnecessary overlap and gaps between criminal offenses;
- (5) Eliminate archaic and unused offenses;
- (6) Adjust penalties, fines, and the gradation of offenses to provide for

- proportionate penalties;
- (7) Organize existing criminal statutes in a logical order;
  - (8) Identify any crimes defined in common law that should be codified, and propose recommended language for codification, as appropriate;
  - (9) Identify criminal statutes that have been held to be unconstitutional and recommend their removal or amendment;
  - (10) Propose such other amendments as the Commission believes are necessary; and
  - (11) Enable the adoption of Title 22 as an enacted title of the District of Columbia Official Code.<sup>1</sup>

On May 5, 2017, the CCRC issued to the Council and Mayor *Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes*. That report contained recommendations partially or wholly responding to items (1), (5), (8), (9), and (11) of the agency's statutory responsibilities.

The CCRC has approached its remaining statutory responsibilities with the goal of maximizing the recommendations for comprehensive criminal code reform that are issued by the agency's statutory deadline. These recommendations will be issued to the Council and Mayor in the form of a second major report on or by March 31, 2021. The second report will provide recommendations for reform of many of the most serious, routinely-sentenced District offenses currently in use. The second report will recommend that reformed offenses be codified chiefly in a new, enacted Title 22 (hereafter, "Title 22E"), with some additional reformed offenses remaining in their current locations in other titles.

Consistent with the past six decades of modern American criminal code reform efforts, the recommended Title 22 will consist of two distinct components.<sup>2</sup> First, Title 22E will contain a "General Part," which provides a legislative statement of the key general definitions, essential interpretive rules, and most important culpability principles applicable to all reformed offenses, as well as a coherent classification scheme for grading reformed offenses. Second, Title 22E will contain a "Special Part," which codifies clearly articulated reformed versions of individual offenses. Collectively, the components of the new Title 22E will provide a full and accurate statutory description of the elements for every reformed offense.

The second report will consist of draft statutory language, as well as a commentary (suitable for adoption as legislative history) that explains how and why the reformed statutes change existing District law. Appendices to the report will provide analysis of how other jurisdictions with

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<sup>1</sup> D.C. Code § 3-151 *et seq.*

<sup>2</sup> For a brief summary of the history of modern American criminal code reform efforts, see CCRC Memorandum No. 2, *Adoption of a Comprehensive General Part in the Revised Criminal Code* (December 21, 2016) available on the agency's website at <https://ccrc.dc.gov/page/ccrc-documents>).

reformed codes treat relevant points of law, as well as charging, sentencing, and other relevant statistics regarding affected offenses.

In preparing its reform recommendations, the CCRC consults with its statutorily-created Advisory Group. The Advisory Group will review, comment, and ultimately vote on all CCRC recommendations that go to the Council and Mayor. The final recommendations will be based on the Advisory Group's comments, reconciled consistent with the agency's statutory mandate, and a copy of those comments will be appended to the report. In preparing its reform recommendations, the CCRC also will review criminal code reforms in other jurisdictions, recommend changes to criminal offenses by the American Law Institute, and survey best practices recommended by criminal law experts.

In sum, by the Commission's statutory deadline, the CCRC plans to issue final recommendations in a second report to the Council and Mayor that, per D.C. Code § 3-152, will include:

- Reformed statutory language for most serious and frequently-prosecuted District offenses;
- New statutory language that codifies consistent general provisions (e.g., mental state requirements, definitions), and at least some general defenses, applicable to reformed offenses;
- Written commentary explaining the meaning of the reformed language and how and why the reformed statutory language changes current District law;
- A record of Advisory Group written comments on draft recommendations and their disposition; and
- Relevant statistical and other information.

#### *Limitations & Assumptions of the Work Plan.*

Due to time and resource constraints, the Work Plan for the March 31, 2021 deadline excludes reform recommendations for many of the more than 700 criminal statutes scattered throughout the D.C. Code.<sup>3</sup> The majority of these criminal statutes are of a regulatory nature, impose misdemeanor penalties, and/or do not appear to have been sentenced in recent years (or ever). A list of statutes expected or not expected to be revised by the CCRC is provided in the work sequence at the end of this document.

With that general caveat regarding the scope of the agency's work, there are several variables that may diminish the number of statutory sections that the CCRC expects to be able to review. These variables include:

- Agency staff loss or unanticipated extended leave;
- New court decisions or legislation (District or federal) affecting draft recommendations;

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<sup>3</sup> This estimate is based on an internal review by CCRC staff of the D.C. Code.

- Advisory Group comments requiring additional drafts of issued recommendations; and
- Advisory Group disagreement that delays a vote to approve the final recommendations.

Of these matters, two are of particular concern. The first is the possibility of significant staff attrition and/or extended leave. The agency's staff is comprised of just five FTEs and has developed unique expertise with the code revision process. In case of staff departure, it will be extremely difficult to attract highly qualified individuals (given the time-limited nature of the employment) and train them in time to significantly advance agency work before the agency's statutory deadline. Extended leave by agency staff could also significantly diminish the number of criminal statutes for which the agency will develop recommendations.

Second, under the agency's statute, the CCRC's Advisory Group's voting members must approve by majority vote all final recommendations of the CCRC before they may be transmitted to the Mayor and Council. To date, no Advisory Group members have stated that they cannot support the agency's draft recommendations, and the differences of opinion that are apparent in Advisory Group members' comments to the agency do not appear to jeopardize final approval. However, the possibility remains that Advisory Group members, perhaps even a majority, may yet raise fundamental objections to the agency's proposals. Should such objections be raised, significant additional time may be needed for staff to restructure its proposals and reengage the Advisory Group with respect to the revisions.

#### *General Sequence of Code Reform Recommendations.*

The CCRC's development of code reform recommendations for the March 31, 2021 deadline follows four general sequential (though overlapping) phases, which can be summarized as follows:

- *Phase 1.* Facilitate enactment of Title 22 of the D.C. Code, which contains most District offenses, and propose other minor amendments to District criminal statutes. Phase 1 recommendations are intended to ease the administrative burden of future amendments to District criminal laws. Phase 1 was completed May 5, 2017, when the CCRC issued to the Council and Mayor Report #1: *Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes.*
- *Phase 2.* Develop key general definitions, essential interpretive rules, and the most important culpability principles applicable to all reformed offenses, including general defenses (e.g. self defense). Phase 2 recommendations are intended to facilitate the clear and comprehensive drafting of reformed offenses, which will be consistently interpreted and applied by the courts. As of February 8, 2021, this phase is complete and there are no current plans for additional general part provisions.

- *Phase 3.* Develop reformed individual offenses consistent with general provisions using language that is accessible, intuitive, and complete. Phase 3 recommendations are intended to facilitate the clear articulation and consistent interpretation of District offenses. As of February 8, 2021, this phase is nearly complete for offenses against persons and property offenses, although several offenses against government operations and public order offenses remain unrevised. Cumulatively, the revised offenses account for over 97% of convictions in recent years.<sup>4</sup>
- *Phase 4.* Review all reformed offenses together as a whole, creating an ordinal ranking of offense severity and establishing the classification of all individual offenses. Phase 4 recommendations are intended to facilitate proportionate penalties for all reformed District offenses. As of February 8, 2021, this phase is nearly complete for all revised offenses, although Advisory Group comments are due February 15, 2021 on the penultimate draft of penalty recommendations.

These four phases follow an overarching logic: prepare Title 22 for reform, create a general framework applicable to all reformed offenses, reform offenses using that general framework, and then reform the penalties for all offenses to be proportionate.

It is important to note, however, that it is neither possible nor desirable for the CCRC to issue or finalize all the recommendations for each phase before starting the next phase. The development of some of the Phase 2 recommendations (e.g., the planned recommendations regarding codification of general defenses) require significant staff time by one staff member, such that, in order to accomplish as much as possible by the CCRC's statutory deadline, work on Phase 3 recommendations have had to commence before completion of Phase 2. It is also expected, however, that work on later phases may reveal the need to rework aspects of earlier phases. Consequently, while the general sequence of code reform work is fixed, some overlap in the completion of phases is necessary. With that in mind, the CCRC has released individual recommendations to ensure that members of the Advisory Group have the information necessary to provide informed comments and feedback on distributed materials.

For more information on these phases and how they have been advanced, please see the agency's past quarterly and annual reports which analyze the agency's progress in terms of these four phases.

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<sup>4</sup> The majority of unrevised offenses in current use are vehicular crimes in Title 50 of the D.C. Code, with smaller proportions being obstruction of justice and animal cruelty offenses.

## **II. Ongoing Activities Supporting the Development of Recommendations.**

The CCRC's development of specific code reform recommendations is supported by a variety of ongoing agency work.

### *Monitoring District Criminal Legislation & Case Law.*

The starting place for criminal code reform is existing District law, whether legislative or judicial. A sound understanding of current District law is critical to providing commentary to the Council on how CCRC recommendations affect District law, a statutory mandate for the agency.<sup>5</sup> Since the inception of the CCRC, staff has conducted a weekly review of legislative and judicial developments in the District and will continue to do so until all recommendations are finalized.

### *Providing Testimony on District Criminal Legislation.*

The agency is available to testify at Council roundtables and hearings involving substantive criminal law issues within the expertise of the agency. Frequently the agency is able to bring a unique perspective as to how to improve proposed statutory language, how proposed statutes overlap with or fill gaps in liability, and how criminal penalties for proposed statutes compare to existing statutes.

### *Monitoring Best Practices & Other Jurisdictions' Criminal Code Reforms.*

By statute,<sup>6</sup> the process the CCRC uses to review District statutes also involves review of reforms in other jurisdictions' code reforms and the recommendations of criminal law experts. In recent years there has been a major surge in state-level criminal justice reforms, often through Justice Reinvestment Initiatives (JRIs) that seek to improve public safety and reduce costs. There also has been progress on new model recommendations for Sentencing and Sexual Assault through the American Law Institute (ALI). Recognizing that the public safety needs, norms, and history of each jurisdiction are unique, the CCRC staff conducts a monthly review of new national developments that may be useful to the District's reform efforts.

### *Transparency, Outreach & Collaboration.*

The agency continually strives to provide public access to all its draft work through its website and solicits any public input on the draft recommendations. Further, to examine best practices and models of reform in other jurisdictions, and to better understand public perspectives on topics

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<sup>5</sup> D.C. Code § 3-152(b)(3).

<sup>6</sup> D.C. Code § 3-152(c)(2).

like penalty proportionality, the CCRC must conduct outreach to other organizations, individuals, and the public at large. Additional outreach to legal experts, criminal justice stakeholders, and the public are being planned.

#### *Data Analysis.*

The CCRC statute currently requires the agency to provide “charging, sentencing, and other relevant statistics” with its final recommendations to the Council and Mayor. However, such statistical information is also critical to the initial development of all reform recommendations. For example, the sentences for a specific offense may show what District judges believe to be a proportionate penalty for that offense. To acquire data, the CCRC is statutorily authorized to request information from other entities. Yearly data requests are made of the D.C. Superior Court, and a new dataset is expected in 2021 that will include charging and sentencing data for the year 2020. This will supplement prior data received for the years 2009 – 2019 for all misdemeanors and felonies. The CCRC currently has on staff a social scientist who can conduct these analysis but in the future will contract with experts, if necessary, to perform additional statistical analysis.

#### *Agency Legal Compliance.*

The CCRC is a relatively new independent agency in District government and has both agency-specific and District-wide responsibilities to operate efficiently, transparently, and lawfully. Since its inception on October 1, 2016, the CCRC has worked with a number of District agencies to set up appropriate financial, budgetary, human relations, facilities, ethics, and other operations. To the best of its knowledge, the agency is fully in compliance with District rules and regulations.

#### *Staff Development & Training.*

The legal challenges of criminal code reform are unique, and the CCRC has been mostly fortunate in retaining a staff with significant experience working on such challenges. Employee development and training is critical to maintaining the staff's unique skills and motivation. In recent years the staff has been able to attend criminal law reform discussions by the American Law Institute and will seek out additional development and training opportunities.

### **Part III. Development of reform recommendations after March 31, 2021.**

After submission of the agency's reform recommendations to the Council and Mayor on March 31, 2021, the agency's work will pursue three main objectives (in addition to the ongoing activities described in Part II of this document):

1. Develop supporting educational materials, conduct outreach, and provide legislative support, as needed, to move the March 31, 2021 reform recommendations into legislation;
2. Develop and issue, with informal input from the agency's statutory Advisory Group, supplementary recommendations for reform of offenses not included in the March 31, 2021 recommendations; and
3. Research reform recommendations for criminal procedure, sentencing, and incarceration provisions in Titles 23 and 24 of the D.C. Code.

The allocation of agency resources to these objectives will depend heavily on whether and when the agency's March 2021 reform recommendations receive legislative consideration. If the Council proceeds to introduce legislation based on the CCRC recommendations in the coming year, supporting such legislation likely will require the majority of staff time.

*Objective #1 – Educational materials, outreach, and legislative support for the March 2021 recommendations.*

As described in Part I of this document, the CCRC March 2021 recommendations will consist of draft statutory language, as well as a commentary (suitable for adoption as legislative history) that explains how and why the reformed statutes change existing District law. Appendices to the document will provide analysis on how other jurisdictions with reformed codes treat relevant points of law, and provide charging, sentencing, and other relevant statistics regarding affected offenses. The statutory text is nearly 200 single-spaced pages in length, with over 2,000 pages of commentary and supporting materials. The March 2021 recommendations are comprehensive, detailed, and complex.

Pursuant to this objective, the CCRC will: develop educational materials suitable for the public; conduct outreach to District agencies, advocacy groups, and the general public to provide information and hear questions and concerns about the recommendations; and support legislative review and any action on the recommendations.

Deliverables under this objective will include the following:

- Issuance of a summary (or multiple summaries) of the main changes to law reflected in the CCRC March 2021 recommendations. Summaries will highlight major changes.



- Issuance of more detailed comparisons of proposed imprisonment penalties with current District sentencing and national numbers. Comparisons will target offenses in the recommendations with the greatest penalty changes.
- Issuance of short papers describing social science findings relevant to the March 2021 recommendations. Topics may include matters such as the relationship between imprisonment terms and crime deterrence.
- Holding at least one information session, open to the public, on the March 2021 recommendations.
- Responding to Council and/or Mayoral inquiries about the March 2021 recommendations and possible steps to move the recommendations forward into law.

Other possible actions in pursuit of this objective include: affirmative outreach to community groups and District agencies with an interest in criminal justice issues; providing testimony at any Council roundtable or hearing that may be held; and additional polling of public opinion about key aspects of the March 2021 recommendations. Whether, when, and the extent of such activities will depend heavily on the extent to which it appears that the recommendations will receive legislative review or action.

The timeline for these deliverables and options will need to be flexible to match possible public or legislative interest in the recommendations. In FY21 (through September 30, 2021), the CCRC has contracted with the Justice Policy Institute (JPI) to provide public relations and strategic communications support to advance the agency's recommendations. The above actions, in significant part, will be done by or in concert with JPI.

*Objective #2 – Supplementary recommendations for reform of D.C. Code criminal offenses.*

As described in Part I of this document, the CCRC March 2021 reform recommendations make recommendations for current District crimes that have accounted for over 97% of convictions in recent years and also would codify general defenses, definitional issues, and other matters commonly in criminal codes across the United States but absent from the D.C. Code. Still, the March 2021 reforms do not completely address all criminal offenses in the D.C. Code and more work remains to be done.

Pursuant to this objective, the CCRC will develop and issue to the Council and Mayor recommendations for reform of D.C. Code criminal offenses not included in the March 2021 package. The attached appendix, "Sequence for Review of D.C. Criminal Offenses" ("Offense Sequence"), describes the criminal statutes for which the CCRC has completed draft reforms for issuance March 31, 2021 and the order in which the agency plans to issue subsequent reform recommendations.

Under this objective the CCRC will prioritize offenses in Title 22 of the D.C. Code. In the third and fourth quarters of FY21, priority will be given to those crimes categorized as offenses against persons (e.g., terrorism, resisting arrest) and offenses against government operations (e.g., obstruction of justice, perjury). In the first and second quarters of FY22, priority will be given to remaining Title 22 offenses that almost all are categorized as offenses against public order and safety, including: gang membership; animal cruelty; gambling; and some environmental crimes. These priority offenses are labeled tier 2 and 3 offenses in the attached appendix. The remaining Title 22 offenses, listed as tier 4 offenses in the appendix, concern matters of criminal procedure or regulatory crimes and are recommended for removal out of Title 22: insurance fraud, telephone fraud, and theft of utility services; sex offender registration.

The speed with which the agency will be able to develop reform recommendations on these matters will depend on the apportioned staff time. Many of these statutes have never been substantively revised and/or involve complex, specialized areas of law (e.g. bribery and public corruption).

Procedurally, the CCRC will invite current Advisory Group members to provide comments on draft statutes on an informal basis in a manner very similar to its current review process. The agency would submit draft statutory language, commentary, and background information to the members for their consideration and comments at the same time as the drafts are posted online for any public comment—the same as under current practice. After a reasonable review time, the agency would review the comments and amend its recommendations based on the comments—again, the same as under current practice. *Ad hoc*, in-person group meetings may not be convened as the experience of the agency has been that such discussions are of limited value as compared to written comments. The main difference in future operation would be the lack of procedural formalities specified in D.C. Code § 3-153. However, as the statutory requirement for the current Advisory Group lapses March 31, 2021, some members may choose not to participate further.

*Objective #3 – Research reform recommendations for criminal procedure, sentencing, and incarceration provisions in Titles 23 and 24 of the D.C. Code*

While the District’s core (non-regulatory) criminal offenses are mostly located in Title 22 of the D.C. Code, two other titles are devoted entirely to criminal statutes. Title 23 of the D.C. Code is an enacted title containing statutory laws on criminal procedures. While many of the District’s criminal procedures are rules established by the D.C. Courts, Title 23 addresses matters such as pretrial detention and consecutive and concurrent sentencing. Title 24 of the D.C. Code is an unenacted title containing statutory laws on sentencing and incarceration. The title is replete with repealed and outdated statutes.

Under this objective the CCRC will review criminal procedure, sentencing, and incarceration provisions currently in Titles 23 and 24 of the D.C. Code, making an initial determination as to

priorities for statutory reform. Notably, the agency's March 2021 recommendations already address a few statutory sections in these titles (e.g., regarding second look procedures and allowable "back up" time in D.C. Code §§ 24-403.01 and 24-403.03). However, the bulk of these titles remain in need of review and revision.

Procedurally, the CCRC will conduct its review by analyzing extant District case law on these statutes and best practices such as those recommended in the American Law Institute's recent sentencing recommendations for the Model Penal Code. Staff will also solicit the opinions of Advisory Group members and the D.C. Courts on statutes and issues that may need reform. The outcome of the review will be a written assessment of problem areas in Titles 23 and 24 and, where easily described, possible solutions. Although changes to many of the provisions in these titles may be beyond the current purview of the Council (due to home rule limitations), the CCRC's assessment will seek to identify areas for reform even where Congressional action may be necessary. The agency will seek to complete its assessment of possible reforms to Titles 23 and 24 by the end of the second quarter of FY 22.

## Appendix – Sequence for Review of D.C. Criminal Offenses

The work sequence attached describes current agency priorities planned through March 31, 2022. The below work sequence identifies:

1. Most<sup>7</sup> crimes codified in the D.C. Code.
2. All statutory sections in Title 22, including sections with non-crime provisions that must be part of enactment of a revised Title 22; and
3. Those D.C. Municipal regulations that both include crimes and have been charged<sup>8</sup> against adults in Superior Court in recent years.

Columns A-C of the table specify statutory citations and names under the current D.C. Code.

Column D indicates the current maximum imprisonment penalty authorized for the crime in the D.C. Code, in terms of years (“Y”), months (“M”) or days (“D”). A crime subject to more than one year imprisonment is a felony, and crimes subject to 6 months or more imprisonment are jury-demandable. Column E indicates the current maximum imprisonment amount in months only, designating the many “180 day” penalties as “5.9” months to contrast with “6 month” penalties. Column F indicates current minimum imprisonment penalties, both statutory and mandatory minimums.

Column G indicates the status of the statutory section in the CCRC’s work plan using numbers and color coding. A “1” marks statutory sections for which the agency has issued to its Advisory Group draft reform recommendations (and are expected to be included in the March 31, 2021 report to the Council and Mayor). A “2” marks statutory sections for which the agency plans to issue new draft recommendations in Q3-Q4 of FY21. A “3” marks statutory sections that the agency expects to prioritize in the first half of FY 22. A “4” marks statutory sections that are not currently planned for review by the agency, most of which are regulatory crimes never charged in the District.

As the table makes evident, the agency cannot revise all District crimes in its March 31, 2021 report. Hundreds of crimes exist in the D.C. Code and Municipal Regulations that have never been charged in Superior Court in recent years, and mostly concern regulatory violations. The CCRC has no plans to review such offenses at present. However, by prioritizing the most common and serious offenses in current use the CCRC has created revisions that account for over 97% of all adult convictions in recent years.

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<sup>7</sup> The table was compiled from various sources. While the list includes all Title 22 crimes and other crimes actually charged in recent years, the list is likely under-inclusive. A conservative method was used for listing regulatory provisions that reference the same penalty provision. The table has been updated frequently, but may contain errors.

<sup>8</sup> Note that the listed DCMR regulations do not include provisions for which there was juvenile charging, or adult arrests or convictions.

Please note that the agency's work on several code reform recommendations are not included in the below table. These additional recommendations include general defenses (e.g. use of force in self-defense) and miscellaneous other general provisions. Legislative codification of general criminal defenses will provide clarity, consistency, and democratic confidence in the scope and meaning of these defenses, rather than relying solely on judicial opinions to establish criminal defenses as in the District.

Also, please note that the Work Sequence does not account for ongoing agency work described in Part II of the Work Plan or new reform efforts concerning Titles 23 and 24 described in Part III of the Work Plan.

This planned work sequence is subject to change based on feedback from the Council, Mayor, members of the community, and internal deliberations about the overall timeline and priorities for the CCRC's work.

CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
	D.C. Code Statute or DCMR Citation	Sub section	Name	Max Prison D=day M=month Y = year	Max Prison (Months)	Min Prison	CCRC Status & Plan 1= Drafted; 2=FY21 Q3-Q4; 3=FY22 Q1-Q2; 4=No current plan
1							
2	0024DCMR2301.3		Possession of BB Gun	0		0	1
3	0024DCMR502.1		Vending Without a License	0		0	1
4	0024DCMR502.2		Vending Without a License	0		0	1
5	05-0115.03		Neglect to make arrest for offense committed in presence.	Y02	24.00	0	1
6	07-2502.01		Registration requirements.	Y01	12.00	0	1
7	07-2502.12		Definition of self-defense sprays.				1
8	07-2502.13		Possession of self-defense sprays.	Y01	12.00	0	1
9	07-2502.15		Possession of stun guns.	Y01	12.00	0	1
10	07-2505.03	(d)	Microstamping	Y01	12.00	0	1
11	07-2506.01		Persons permitted to possess ammunition.	Y01	12.00	0	1
12	07-2507.02	(c)(2)	Responsibilities regarding storage of firearms.	Y05	60.00	0	1
13	07-2507.02	(c)(1)	Responsibilities regarding storage of firearms.	D180	5.90	0	1
14	16-1024	(b)(2)	[Parental kidnapping] Penalties.	Y01	12.00	0	1
15	16-1024	(b)(1)	[Parental kidnapping] Penalties.	M06	6.00	0	1
16	16-1024	(b)(2)	[Parental kidnapping] Penalties.	D060	2.00	0	1
17	16-1024	(a)	[Parental kidnapping] Penalties.	0		0	1
18	16-1024	(b)(1)	[Parental kidnapping] Penalties.	0		0	1
19	22-0301		Definition and penalty. (Arson)	Y10	120.00	Y01	1
20	22-0302		Burning one's own property with intent to defraud or injure another.	Y15	180.00	0	1
21	22-0303		Malicious burning, destruction, or injury of another's property.	Y10	120.00	0	1
22	22-0303		Malicious burning, destruction, or injury of another's property.	D180	5.90	0	1
23	22-0401		Assault with intent to kill, rob, or poison, or to commit first degree sexual abuse, second degree sexual abuse or child sexual abuse.	Y15	180.00	Y02	1
24	22-0402		Assault with intent to commit mayhem or with dangerous weapon.	Y10	120.00	0	1
25	22-0403		Assault with intent to commit any other offense.	Y05	60.00	0	1
26	22-0404	(a)(2)	Assault or threatened assault in a menacing manner; stalking.	Y03	36.00	0	1
27	22-0404	(a)(1)	Assault or threatened assault in a menacing manner; stalking.	D180	5.90	0	1
28	22-0404.01		Aggravated assault	Y10	120.00	0	1
29	22-0404.02		Assault on a public vehicle inspection officer.	D180	5.90	0	1
30	22-0404.03		Aggravated assault on a public vehicle inspection officer.	Y10	120.00	0	1
31	22-0405	(c)	Assault on member of police force, campus or university special police, or fire department.	Y10	120.00	0	1
32	22-0405	(b)	Assault on member of police force, campus or university special police, or fire department.	M06	6.00	0	1
33	22-0406		Mayhem or maliciously disfiguring.	Y10	120.00	0	1
34	22-0407		Threats to do bodily harm.	M06	6.00	0	1
35	22-0601		Breaking and entering vending machines and similar devices.	Y03	36.00	0	1
36	22-0801	(a)	[First Degree Burglary] Definition and penalty.	Y30	360.00	Y05	1
37	22-0801	(b)	[Second Degree Burglary] Definition and penalty.	Y15	180.00	Y02	1

CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

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1							
38	22-0811	(b)(5)	Contributing to the delinquency of a minor.	Y10	120.00	0	1
39	22-0811	(b)(3)	Contributing to the delinquency of a minor.	Y05	60.00	0	1
40	22-0811	(b)(4)	Contributing to the delinquency of a minor.	Y05	60.00	0	1
41	22-0811	(b)(2)	Contributing to the delinquency of a minor.	Y03	36.00	0	1
42	22-0811	(b)(1)	Contributing to the delinquency of a minor.	M06	6.00	0	1
43	22-0851	(b)	Protection of District public officials.	Y05	60.00	0	1
44	22-0851	(c)	Protection of District public officials.	Y03	36.00	0	1
45	22-0851	(d)	Protection of District public officials.	Y03	36.00	0	1
46	22-0901		[Trademark Counterfeiting] Definitions				1
47	22-0902	(b)(3)	Trademark counterfeiting.	Y10	120.00	0	1
48	22-0902	(b)(2)	Trademark counterfeiting.	Y03	36.00	0	1
49	22-0902	(b)(1)	Trademark counterfeiting.	D180	5.90	0	1
50	22-0931		Short Title				1
51	22-0932		Definitions				1
52	22-0933		Criminal abuse of a vulnerable adult.	Y20	240.00	0	1
53	22-0933		Criminal abuse of a vulnerable adult.	Y10	120.00	0	1
54	22-0933		Criminal abuse of a vulnerable adult.	D180	5.90	0	1
55	22-0933.01		Financial exploitation of a vulnerable adult or elderly person	Y10	120.00	0	1
56	22-0934		Criminal negligence.	Y20	240.00	0	1
57	22-0934		Criminal negligence.	Y10	120.00	0	1
58	22-0934		Criminal negligence.	D180	5.90	0	1
59	22-0935		Exception				1
60	22-0936		Penalties				1
61	22-0936.01		Criminal penalties for financial exploitation of a vulnerable adult or elderly person				1
62	22-0937		Civil penalties for financial exploitation of a vulnerable adult or elderly person				1
63	22-0938		Injunctive relief and protections				1
64	22-1101	(c)(1)	[Child cruelty] Definition and penalty.	Y15	180.00	0	1
65	22-1101	(c)(2)	[Child cruelty] Definition and penalty.	Y10	120.00	0	1
66	22-1102		Refusal or neglect of guardian to provide for child under 14 years of age.	M03	3.00	0	1
67	22-1211		Tampering with a detection device.	D180	5.90	0	1
68	22-1301		Affrays.	D180	5.90	0	1
69	22-1307		Crowding, obstructing, or incommoding.	D090	3.00	0	1
70	22-1308		Playing games in streets.	0		0	1
71	22-1311	(b)	Allowing dogs to go at large.	0		0	1
72	22-1311	(a)	Allowing dogs to go at large.	0		0	1
73	22-1311	(a)	Allowing dogs to go at large.	0		0	1
74	22-1312		Lewd, indecent, or obscene acts; sexual proposal to a minor.	D090	3.00	0	1
75	22-1317		Flying fire balloons or parachutes.	0		0	1
76	22-1318		Driving or riding on footways in public grounds.	0		0	1
77	22-1321		Disorderly conduct.	D090	3.00	0	1
78	22-1322	(d)	Rioting or inciting to riot	Y10	120.00	0	1
79	22-1322	(b)	Rioting or inciting to riot	D180	5.90	0	1
80	22-1322	(c)	Rioting or inciting to riot	D180	5.90	0	1
81	22-1323		Obstructing Bridges Connecting D.C. and Virginia	D030	1.00	0	1
82	22-1341		Unlawful entry of a motor vehicle.	D090	3.00	0	1

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1							
83	22-1402		Recordation of deed, contract, or conveyance with intent to extort money	D180	5.90	0	1
84	22-1404		Falsely Impersonating Public officer or minister	Y03	36.00	Y01	1
85	22-1405		False personation of inspector of departments of District.	0		0	1
86	22-1406		False personation of police officer.	D180	5.90	0	1
87	22-1409		Use of official insignia; penalty for unauthorized use.	Y01	12.00	0	1
88	22-1502		Forging or imitating brands or packaging of goods	D180	5.90	0	1
89	22-1510		Making, drawing, or uttering check, draft, or order with intent to defraud; proof of intent; "credit" defined.	Y03	36.00	Y01	1
90	22-1510		Making, drawing, or uttering check, draft, or order with intent to defraud; proof of intent; "credit" defined.	D180	5.90	0	1
91	22-1511		Fraudulent advertising.	D060	2.00	0	1
92	22-1512		Prosecution under 22-1511				1
93	22-1513		Penalty under 22-2511				1
94	22-1801		"Writing" and "paper defined.				1
95	22-1802		"Anything of value" defined.				1
96	22-1803		Attempts to commit crime				1
97	22-1804		Second Conviction				1
98	22-1804a		Penalty for felony after at least 2 prior felony convictions				1
99	22-1805		Persons advising, inciting, or conniving at criminal offense to be charged as principals				1
100	22-1805a	(a)(2)	Conspiracy	Y15	180.00	0	1
101	22-1805a	(a)(1)	Conspiracy	Y05	60.00	0	1
102	22-1807		Punishment for offenses not covered by provisions of Code	Y05	60.00	0	1
103	22-1810		Threatening to kidnap or injure a person or damage his property.	Y20	240.00	0	1
104	22-1831		[Human trafficking] Definitions.				1
105	22-1832		[Human trafficking] Forced labor	Y20	240.00	0	1
106	22-1833		[Human trafficking] Trafficking in labor or commercial sex acts.	Y20	240.00	0	1
107	22-1834		[Human trafficking] Sex trafficking of children.	Y20	240.00	0	1
108	22-1835		[Human trafficking] Unlawful conduct with respect to documents in furtherance of human trafficking.	Y05	60.00	0	1
109	22-1836		[Human trafficking] Benefitting financially from human trafficking.	Y20	240.00	0	1
110	22-1837		[Human trafficking] Penalties.				1
111	22-1838		[Human trafficking] Forfeiture.				1
112	22-1839		[Human trafficking] Reputation or opinion evidence.				1
113	22-1840		[Human trafficking] Civil Action.				1
114	22-1841		[Human trafficking] Data collection and dissemination.				1
115	22-1842		[Human trafficking] Training program.				1
116	22-1843		[Human trafficking] Public posting of human trafficking hotline				1
117	22-1901		[Incest] Definition and penalty.	Y12	144.00	0	1
118	22-2001		[Kidnapping] Definition and penalty; conspiracy.	Y30	360.00	0	1
119	22-2101		Murder in the first degree - Purposeful killing; killing while perpetrating certain crimes.	LIFE	LIFE	Y30	1



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120	22-2102		Murder in the first degree - Placing obstructions upon or displacement of railroads.	LIFE	LIFE	Y30	1
121	22-2103		Murder in the second degree.	LIFE	LIFE	0	1
122	22-2104		Penalty for murder in first and second degree.				1
123	22-2104.01		Sentencing procedure for murder in the first degree.				1
124	22-2105		Penalty for manslaughter. (Voluntary Manslaughter)	Y30	360.00	0	1
125	22-2105		Penalty for manslaughter. (Involuntary Manslaughter)	Y30	360.00	0	1
126	22-2106		Murder of law enforcement officer.	LIFE	LIFE	LIFE	1
127	22-2107	(a)	Penalty for solicitation of murder or other crime of violence.	Y20	240.00	0	1
128	22-2107	(b)	Penalty for solicitation of murder or other crime of violence.	Y10	120.00	0	1
129	22-2201		Certain obscene activities and conduct declared unlawful	D180	5.90	0	1
130	22-2301		[Panhandling] Definitions.				1
131	22-2302		[Panhandling] Prohibited acts.	D090	3.00	0	1
132	22-2303		[Panhandling] Permitted activity.				1
133	22-2304		[Panhandling] Penalties.				1
134	22-2305		[Panhandling] Conduct of persecutions.				1
135	22-2306		[Panhandling] Disclosure.				1
136	22-2501		Possession of implements of crime; penalty.	Y05	60.00	Y01	1
137	22-2601		Escape from institution or officer.	Y05	60.00	0	1
138	22-2603.01		[CONTRABAND] Definitions.				1
139	22-2603.02	(a)	Unlawful possession of contraband.	Y10	120.00	0	1
140	22-2603.02	(b)	Unlawful possession of contraband.	Y02	24.00	0	1
141	22-2603.02	(c)	Unlawful possession of contraband.	Y01	12.00	0	1
142	22-2603.03		[CONTRABAND] Penalties.				1
143	22-2603.04		[CONTRABAND] Detainment power.				1
144	22-2701		Engaging in prostitution or soliciting for prostitution.	D090	3.00	0	1
145	22-2701.01		Definitions.				1
146	22-2703		Suspension of sentence; conditions; enforcement.				1
147	22-2704		Abducting or enticing child from his or her home for purposes of prostitution; harboring such child.	Y20	240.00	0	1
148	22-2705	(c)(2)	Pandering; inducing or compelling an individual to engage in prostitution.	Y20	240.00	0	1
149	22-2705	(c)(1)	Pandering; inducing or compelling an individual to engage in prostitution.	Y05	60.00	0	1
150	22-2706	(b)(2)	Compelling an individual to live life of prostitution against his or her will.	Y20	240.00	0	1
151	22-2706	(b)(1)	Compelling an individual to live life of prostitution against his or her will.	Y15	180.00	0	1
152	22-2707	(b)(2)	Procuring; receiving money or other valuable thing for arranging assignation.	Y20	240.00	0	1
153	22-2707	(b)(1)	Procuring; receiving money or other valuable thing for arranging assignation.	Y05	60.00	0	1
154	22-2708		Causing spouse or domestic partner to live in prostitution.	Y10	120.00	0	1
155	22-2709		Detaining an individual in disorderly house for debt there contracted.	Y05	60.00	0	1
156	22-2710		Procuring for house of prostitution.	Y05	60.00	0	1

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157	22-2711		Procuring for third persons.	Y05	60.00	0	1
158	22-2712		Operating house of prostitution.	Y05	60.00	0	1
159	22-2713		Premises occupied for lewdness, assignation, or prostitution declared nuisance.				1
160	22-2714		Abatement of nuisance under 22-2713 by injunction--temporary injunction.				1
161	22-2715		Abatement of nuisance under 22-2713 by injunction--trial; dismissal of complaint; prosecution; costs.				1
162	22-2716		Violation of injunction granted under § 22-2714.	M06	6.00	M03	1
163	22-2717		Order of abatement; sale of propoerty; entry of closed premises punishable as contempt.				1
164	22-2718		Disposition of proceeds of sale.				1
165	22-2719		Bond for abatement; order for delivery of premises; effect of release.				1
166	22-2720		Tax for maintaining such nuisance.				1
167	22-2722		Keeping bawdy or disorderly houses.	Y05	60.00	0	1
168	22-2723		Property subject to seizure and forfeiture.				1
169	22-2724		Impoundment				1
170	22-2725		Anti-prostitution vehicle impoundment proceeds fund.				1
171	22-2801		Robbery.	Y15	180.00	Y02	1
172	22-2802		Attempt to commit robbery				1
173	22-2803	(b)(2)	Armed Carjacking.	Y40	480.00	Y15	1
174	22-2803	(a)(2)	Carjacking.	Y21	252.00	Y07	1
175	22-3001		[Sexual Abuse] Definitions.				1
176	22-3002		First degree sexual abuse.	LIFE	LIFE	0	1
177	22-3003		Second degree sexual abuse.	Y20	240.00	0	1
178	22-3004		Third degree sexual abuse.	Y10	120.00	0	1
179	22-3005		Fourth degree sexual abuse.	Y05	60.00	0	1
180	22-3006		Misdemeanor sexual abuse.	D180	5.90	0	1
181	22-3007		Defense to sexual abuse.				1
182	22-3008		First degree child sexual abuse.	LIFE	LIFE	0	1
183	22-3009		Second degree child sexual abuse.	Y10	120.00	0	1
184	22-3009.01		First degree sexual abuse of a minor.	Y15	180.00	0	1
185	22-3009.02		Second degree sexual abuse of a minor.	Y07.5	90.00	0	1
186	22-3009.03		First degree sexual abuse of a secondary education student	Y10	120.00	0	1
187	22-3009.04		Second degree sexual abuse of a secondary education student	Y05	60.00	0	1
188	22-3010		Enticing a child or minor.	Y05	60.00	0	1
189	22-3010.01		Misdemeanor sexual abuse of a child or minor.	D180	5.90	0	1
190	22-3010.02		Arranging for a sexual contact with a real or fictitious child.	Y05	60.00	0	1
191	22-3011		Defenses to child sexual abuse and sexual abuse of a minor.				1
192	22-3012		State of mind proof requirement.				1
193	22-3013		First degree sexual abuse of a ward, patient, client, or prisoner.	Y10	120.00	0	1
194	22-3014		Second degree sexual abuse of a ward, patient, client, or prisoner.	Y05	60.00	0	1
195	22-3015		First degree sexual abuse of a patient or client.	Y10	120.00	0	1

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196	22-3016		Second Degree Sexual Abuse of a Patient or Client	Y05	60.00	0	1
197	22-3017		Defenses to sexual abuse of a ward, patient, or client.				1
198	22-3018		Attempts to commit sexual offenses				1
199	22-3019		No immunity from prosecution for spouses or domestic partners.				1
200	22-3020		Aggravating circumstances.				1
201	22-3020.51		Definitions.				1
202	22-3020.52		Reporting requirements and privileges.				1
203	22-3020.53		Defense to non-reporting.				1
204	22-3020.54		Penalties.				1
205	22-3020.55		Immunity from liability.				1
206	22-3021		Reputation or opinion evidence of victim's past sexual behavior inadmissible.				1
207	22-3022		Admissibility of other evidence of victim's past sexual behavior.				1
208	22-3023		Prompt reporting.				1
209	22-3024		Privilege inapplicable for spouses or domestic partners				1
210	22-3051		[Non-consensual pornography] Definitions.				1
211	22-3052		Unlawful disclosure.	D180	5.90	0	1
212	22-3053		First-degree unlawful publication.	Y03	36.00	0	1
213	22-3054		Second-degree unlawful publication.	D180	5.90	0	1
214	22-3055		[Non-consensual pornography] Exclusions.				1
215	22-3056		[Non-consensual pornography] Affirmative defenses.				1
216	22-3057		[Non-consensual pornography] Jurisdiction.				1
217	22-3101		[Sexual performance using minors] Definitions.				1
218	22-3102		[Sexual performance using minors] Prohibited acts.	Y10	120.00	0	1
219	22-3103		[Sexual performance using minors] Penalties	Y20	240.00	0	1
220	22-3104		[Sexual performance using minors] Affirmative defenses.				1
221	22-3131		[Stalking] Short title.				1
222	22-3132		[Stalking] Definitions.				1
223	22-3133		Stalking	Y10	120.00	0	1
224	22-3133		Stalking	Y05	60.00	0	1
225	22-3133		Stalking	Y01	12.00	0	1
226	22-3134		[Stalking] Penalties.				1
227	22-3135		[Stalking] Jurisdiction.				1
228	22-3201		Definitions.				1
229	22-3202		Aggregation of amounts received to determine grade of offense.				1
230	22-3203		Consecutive sentences.				1
231	22-3204		Case referral.				1
232	22-3211		Theft	Y10	120.00	0	1
233	22-3211		Penalties for theft	D180	5.90	0	1
234	22-3212		Penalties for theft				1
235	22-3213		Shoplifting	D090	3.00	0	1
236	22-3214		Commercial Piracy	D180	5.90	0	1
237	22-3214.01		Deceptive Labeling	Y05	60.00	0	1
238	22-3214.01		Deceptive Labeling	Y01	12.00	0	1

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239	22-3214.02		Unlawful operation of a recording device in a motion picture theater.	D090	3.00	0	1
240	22-3215	(d)(2)(A)	UUV	Y10	120.00	0	1
241	22-3215	(d)(2)(A)	UUV	Y10	120.00	Y05	1
242	22-3215	(d)(1)	UUV	Y05	60.00	0	1
243	22-3215	(d)(4)	UUV	Y03	36.00	0	1
244	22-3216		TPWR	D090	3.00	0	1
245	22-3221	(a)(1)	Fraud	Y10	120.00	0	1
246	22-3221	(b)(1)	Fraud	Y03	36.00	0	1
247	22-3221	(a)(2)	Fraud	D180	5.90	0	1
248	22-3221	(b)(2)	Fraud	D180	5.90	0	1
249	22-3222		Penalties for fraud.				1
250	22-3223	(d)(2)	Credit Card Fraud	Y10	120.00	0	1
251	22-3223	(d)(1)	Credit Card Fraud	D180	5.90	0	1
252	22-3224		Fraudulent registration.	D090	3.00	0	1
253	22-3224.01		Jurisdiction.				1
254	22-3227.01		[Identity Theft] Definitions.				1
255	22-3227.02		[Identity Theft] Identify Theft	Y10	120.00	0	1
256	22-3227.02		[Identity Theft] Identify Theft	D180	5.90	0	1
257	22-3227.03		[Identity Theft] Penalties for identity theft.				1
258	22-3227.04		[Identity Theft] Restitution.				1
259	22-3227.05		[Identity Theft] Correction of public records.				1
260	22-3227.06		[Identity Theft] Jurisdiction.				1
261	22-3227.07		[Identity Theft] Limitations.				1
262	22-3227.08		[Identity Theft] Police reports.				1
263	22-3231		Trafficking in stolen property	Y10	120.00	0	1
264	22-3232	(c)(1)	Receiving stolen property	Y07	84.00	0	1
265	22-3232	(c)(2)	Receiving stolen property	D180	5.90	0	1
266	22-3233	(b)(2)	Altering or removing motor vehicle identification numbers.	Y05	60.00	0	1
267	22-3233	(b)(1)	Altering or removing motor vehicle identification numbers.	D180	5.90	0	1
268	22-3234		Altering or removing bicycle identification numbers.	D180	5.90	0	1
269	22-3241	(a)	Forgery	Y10	120.00	0	1
270	22-3241	(b)	Forgery	Y05	60.00	0	1
271	22-3241	(c)	Forgery	Y03	36.00	0	1
272	22-3242		Penalties for forgery				1
273	22-3251		Extortion	Y10	120.00	0	1
274	22-3252		Blackmail	Y05	60.00	0	1
275	22-3301		Forcible entry and detainer	Y01	12.00	0	1
276	22-3302	(b)	Unlawful Entry	M06	6.00	0	1
277	22-3302	(a)(1)	Unlawful Entry	D180	5.90	0	1
278	22-3303		Grave robbery; buying or selling dead bodies.	Y03	36.00	Y01	1
279	22-3305		Placing explosives with intent to destroy or injure property.	Y10	120.00	Y02	1
280	22-3306		Defacing books, manuscripts, publications, or works of art.	D180	5.90	0	1
281	22-3307		Destroying or defacing public records.	D180	5.90	0	1
282	22-3309		Destroying boundary markers.	D180	5.90	0	1

## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
	D.C. Code Statute or DCMR Citation	Sub section	Name	Max Prison D=day M=month Y = year	Max Prison (Months)	Min Prison	CCRC Status & Plan 1= Drafted; 2=FY21 Q3-Q4; 3=FY22 Q1-Q2; 4=No current plan
1							
283	22-3310	((1)	Destroying vines, bushes, shrubs, trees or protections thereof; penalty.	D090	3.00	0	1
284	22-3310	((2)	Destroying vines, bushes, shrubs, trees or protections thereof; penalty.	D030	1.00	0	1
285	22-3312.01		Defacing public or private property.	D180	5.90	0	1
286	22-3312.03		Wearing hoods or masks.	D180	5.90	0	1
287	22-3312.04	(d)	Penalties	D180	5.90	0	1
288	22-3312.04	(e)	Penalties	0		0	1
289	22-3312.05		[Graffiti] Definitions.				1
290	22-3313		Destroying or defacing building material for streets	0		0	1
291	22-3314		Destroying cemetery railing or tomb.	0		0	1
292	22-3318		Malicious pollution of water	Y03	36.00	Y01	1
293	22-3319		Placing obstructions on or displacement of railway tracks	Y10	120.00	0	1
294	22-3320		Obstructing public road; removing milestones	U		U	1
295	22-3321		Obstructing public highway	0		0	1
296	22-3322		Fines under 22-3321 to be collected in name of united states.				1
297	22-3401		Use of "District of Columbia" or similar designation by private detective or collection agency - Prohibited	D090	3.00	0	1
298	22-3402		Use of "District of Columbia" or similar designation by private detective or collection agency - Penalty.				1
299	22-3403		Use of "District of Columbia" or similar designation by private detective or collection agency - prosecutions for violations.				1
300	22-3531	(f)(2)	Voyeurism	Y05	60.00	0	1
301	22-3531	(f)(1)	Voyeurism	Y01	12.00	0	1
302	22-3571.01		Fines for criminal offenses.				1
303	22-3571.02		Applicability of fine proportionality provision.				1
304	22-3601		Enhanced penalty for crimes against senior citizen victims.				1
305	22-3602		Enhanced penalty for committing certain dangerous and violent crimes against a citizen patrol member.				1
306	22-3611		Enhanced penalty for committing crime of violence against minors.				1
307	22-3701		[Bias-related crime] Definitions.				1
308	22-3702		[Bias-related crime] Collection and publication of data.				1
309	22-3703		[Bias-related crime] Bias-related crime.				1
310	22-3704		[Bias-related crime] Civil action.				1
311	22-3751		Enhanced penalties for offenses committed against taxicab drivers.				1
312	22-3751.02		Enhanced penalties for offenses committed against transit operators and Metrorail station managers.				1
313	22-3752		[Transportation worker enhancement] Enumerated offenses.				1
314	22-4501		Definitions.				1
315	22-4502		Additional penalty for committing crime when armed.				1
316	22-4502.01		Gun free zones; enhanced penalty.				1
317	22-4503		Unlawful possession of firearm.	Y10	120.00	Y01	1

CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
1	D.C. Code Statute or DCMR Citation	Sub section	Name	Max Prison D=day M=month Y = year	Max Prison (Months)	Min Prison	CCRC Status & Plan 1= Drafted; 2=FY21 Q3-Q4; 3=FY22 Q1-Q2; 4=No current plan
318	22-4503.01		Unlawful discharge of a firearm.	Y01	12.00	0	1
319	22-4503.02		Prohibition of firearms from public or private property.				1
320	22-4504	(b)	Carrying concealed weapons; possession of weapons during commission of crime of violence; penalty.	Y15	180.00	Y05	1
321	22-4504	(c)	Unlawful possession of firearm.	Y10	120.00	Y02	1
322	22-4504	(a)(2)	Carrying concealed weapons; possession of weapons during commission of crime of violence; penalty.	Y10	120.00	0	1
323	22-4504	(a)(1)	Carrying concealed weapons; possession of weapons during commission of crime of violence; penalty.	Y05	60.00	0	1
324	22-4504.01		Authority to carry firearm in certain places and for certain purposes.				1
325	22-4504.02		Lawful transportation of firearms.				1
326	22-4505		Exceptions to § 22-4504.				1
327	22-4506		Issue of a license to carry a pistol.				1
328	22-4507		Certain sales of pistols prohibited.				1
329	22-4508		Transfers of firearms regulated.				1
330	22-4509		Dealers of weapons to be licensed.				1
331	22-4510		Licenses of weapons dealers; records; by whom granted; conditions	Y01	12.00	0	1
332	22-4510		Licenses of weapons dealers; records; by whom granted; conditions.				1
333	22-4511		False information in purchase of weapons prohibited	Y01	12.00	0	1
334	22-4512		Alteration of identifying marks of weapons prohibited.	Y01	12.00	0	1
335	22-4513		Exceptions.				1
336	22-4514	(c)	Possession of certain dangerous weapons prohibited; exceptions	Y10	120.00	0	1
337	22-4514		Possession of certain dangerous weapons prohibited; exceptions	Y01	12.00	0	1
338	22-4515		Penalties				1
339	22-4515a	(d)	Manufacture, transfer, use, possession, or transportation of Molotov cocktails, or other explosives for unlawful purposes, prohibited; definitions; penalties.	Y05	60.00	Y01	1
340	22-4516		Severability.				1
341	22-4517		Dangerous articles; definition; taking and destruction; procedure.				1
342	23-0585	(b)(2)	Violation of condition of release on citation; failure to appear.	Y05	60.00	0	1
343	23-0585	(b)(1)	Violation of condition of release on citation; failure to appear.	0		0	1
344	23-0703		Failure to appear	Y05	60.00	0	1
345	23-1327	(a)(1)	Penalties for failure to appear.	Y05	60.00	Y01	1
346	23-1327	(a)(2)	Penalties for failure to appear.	D180	5.90	D090	1
347	23-1327	(a)(3)	Penalties for failure to appear.	D180	5.90	0	1
348	23-1328	(a)(1)	Offenses committed during release.	Y05	60.00		1
349	23-1328	(a)(2)	Offenses committed during release.	D180	5.90		1
350	23-1329		Penalties for violation of conditions of release.	M06	6.00	0	1
351	25-1001		Possession of Open Container	D090	3.00	0	1

CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

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1							
352	35-0216		Failure to pay established fare or to present valid transfer; entry by rear exit door prohibited	D010	0.30	0	1
353	48-0904.01	(a)(2)(A)	Prohibited acts A; penalties	Y30	360.00	0	1
354	48-0904.01	(b)(2)(A)	Prohibited acts A; penalties	Y30	360.00	0	1
355	48-0904.01	(a)(2)(B)	Prohibited acts A; penalties	Y05	60.00	0	1
356	48-0904.01	(b)(2)(B)	Prohibited acts A; penalties	Y05	60.00	0	1
357	48-0904.01	(a)(2)(C)	Prohibited acts A; penalties	Y03	36.00	0	1
358	48-0904.01	(b)(2)(C)	Prohibited acts A; penalties	Y03	36.00	0	1
359	48-0904.01	(d)(2)	Prohibited acts A; penalties	Y03	36.00	0	1
360	48-0904.01	(a)(2)(D)	Prohibited acts A; penalties	Y01	12.00	0	1
361	48-0904.01	(b)(2)(D)	Prohibited acts A; penalties	Y01	12.00	0	1
362	48-0904.01	(d)(1)	Prohibited acts A; penalties	D180	5.90	0	1
363	48-0904.01	(a)(2)(B)	Prohibited acts A; penalties	D180	5.90	0	1
364	48-0904.02		Prohibited acts B; penalties	Y01	12.00	0	1
365	48-0904.03		Prohibited acts C; penalties	Y04	48.00	0	1
366	48-0904.03a		Prohibited acts D; penalties	Y25	300.00	Y05	1
367	48-0904.04		Penalties under other laws.				1
368	48-0904.05		Effect of acquittal or conviction under federal law.				1
369	48-0904.06	(a)	Distribution to minors	Y60	720.00	0	1
370	48-0904.06	(b)	Distribution to minors	Y10	120.00	0	1
371	48-0904.07	(b)(2)	Enlistment of minors to distribute	Y20	240.00	0	1
372	48-0904.07	(b)(1)	Enlistment of minors to distribute	Y10	120.00	0	1
373	48-0904.07a		Drug free zones.	U		U	1
374	48-0904.08		Second or subsequent offenses.				1
375	48-0904.09		Attempt; conspiracy.				1
376	48-0904.10		Possession of drug paraphernalia	D180	5.90	0	1
377	48-0911.01		Consumption of marijuana in public space prohibited; impairment prohibited.	D060	2.00	0	1
378	48-1103	(c)	Prohibited acts	Y08	96.00	0	1
379	48-1103	(b)	Prohibited acts	M06	6.00	0	1
380	48-1103	(c)(4)	Prohibited acts	D180	5.90	0	1
381	48-1103	(a)	Prohibited acts	D030	1.00	0	1
382	50-2203.01		Negligent homicide	Y05	60.00	0	1
383	22-0405.01		Resisting arrest by individual reasonably believed to be law enforcement officer	M06	6.00	0	2
384	22-0721		[Obstruction of Justice] Definitions.				2
385	22-0722		[Obstruction of Justice] Prohibited acts; penalty.	Y30	360.00	Y03	2
386	22-0723		Tampering with physical evidence; penalty.	Y03	36.00	0	2
387	22-1313		Kindling bonfires.	0		0	2
388	22-1319	(d)(3)	False alarms and false reports; hoax weapons.	Y10	120.00	0	2
389	22-1319	(c)(3)	False alarms and false reports; hoax weapons.	Y05	60.00	0	2
390	22-1319	(b)(3)	False alarms and false reports; hoax weapons.	Y01	12.00	0	2
391	22-1319	(a)	False alarms and false reports; hoax weapons.	M06	6.00	0	2
392	22-1319	(a-1)	False alarms and false reports; hoax weapons.	M06	6.00	0	2
393	22-1403		False personation before court, officers, notaries	Y05	60.00	Y01	2
394	22-1514		Fraudulent interference or collusion in jury selection.	D180	5.90	0	2
395	22-1806		Accessories after the fact				2
396	22-1808		Offenses committed beyond District				2
397	22-1809		Prosecutions.				2



## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

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1							
398	22-1931		Obstructing, preventing, or interfering with reports to or requests for assistance from law enforcement agencies, medical providers, or child welfare agencies.	D180	5.90	0	2
399	22-2402		Perjury.	Y10	120.00	0	2
400	22-2403		Subornation of perjury.	Y10	120.00	0	2
401	22-2404		False swearing.	Y03	36.00	0	2
402	22-2405		False statements.	D180	5.90	0	2
403	22-2751		Definitions.				2
404	22-3151		[Terrorism] Short title.				2
405	22-3152		[Terrorism] Definitions.				2
406	22-3153		Acts of terrorism; penalties				2
407	22-3154		Manufacture or possession of a weapon of mass destruction.	LIFE	LIFE	0	2
408	22-3155		Use, dissemination, or detonation of a weapon of mass destruction.	LIFE	LIFE	0	2
409	22-3156		[Terrorism] Jurisdiction.				2
410	22-4015		Penalties; mandatory release condition	D180	5.90	0	2
411	05-0117.05		False or fictitious reports to Metropolitan Police.	D030	1.00	0	3
412	22-0501		Bigamy.	Y07	84.00	Y02	3
413	22-0704		Corrupt influence; officials.	Y05	60.00	M06	3
414	22-0711		[Bribery] Definitions				3
415	22-0712		[Bribery] Prohibited acts; penalty.	Y10	120.00	0	3
416	22-0713		Bribery of witness; penalty.	Y05	60.00	0	3
417	22-0861	(b)(2)	Harassing, interfering with, injuring, or obstructing a police animal.	Y10	120.00	0	3
418	22-0861	(b)(1)	Harassing, interfering with, injuring, or obstructing a police animal.	D180	5.90	0	3
419	22-0951	(c)(2)	Criminal street gangs.	Y10	120.00	0	3
420	22-0951	(b)(2)	Criminal street gangs.	Y05	60.00	0	3
421	22-0951	(a)(2)	Criminal street gangs.	M06	6.00	0	3
422	22-1001	(d)	Definitions and penalties.	Y05	60.00	0	3
423	22-1001	(a)(1)	Definitions and penalties.	D180	5.90	0	3
424	22-1002		Other cruelties to animals	D180	5.90	0	3
425	22-1002.01		Reporting requirements				3
426	22-1003		Rest, water and feeding for animals transported by railroad company				3
427	22-1004		Arrests without warrant authorized; notice to owner				3
428	22-1005		Issuance of search warrants				3
429	22-1006		Prosecution of offenders; disposition of fines				3
430	22-1006.01		Penalty for engaging in animal fighting.	Y05	60.00	0	3
431	22-1007		Impounded animals to be supplied with food and water				3
432	22-1008		Relief of impounded animals				3
433	22-1009		Keeping or using place for fighting or baiting of fowls or animals; arrest without warrant	Y05	60.00	0	3
434	22-1011		Neglect of sick or disabled animals	D180	5.90	0	3
435	22-1012		Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.	D180	5.90	0	3
436	22-1013		Definitions				3
437	22-1015		Penalty for engaging in animal fighting				3



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438	22-1309		Throwing stones or other missiles.	0		0	3
439	22-1310		Urging dogs to fight or create disorder.	0		0	3
440	22-1314.01		[Access to Medical Facility] Definitions				3
441	22-1314.02		[Access to Medical Facility] Prohibited acts.	D180	5.90	0	3
442	22-1701		Lotteries; promotion; sale or possession of tickets.	Y03	36.00	0	3
443	22-1702		Possession of lottery or policy tickets	D180	5.90	0	3
444	22-1703		Permitting sale of lottery tickets on premises	D180	5.90	0	3
445	22-1704		Gaming; setting up gaming table; inducing play	Y05	60.00	0	3
446	22-1705		Gambling premises; definition; prohibition against maintaining; forfeiture; liens; deposit of moneys in Treasury; penalty; subsequent offenses.	D180	5.90	0	3
447	22-1706		Three Card Monte	D180	5.90	0	3
448	22-1707		"Gaming table" defined				3
449	22-1708		Gambling pools and bookmaking; athletic contest defined.	D180	5.90	0	3
450	22-1713	(c)	Corrupt influence in connection with athletic contests.	Y05	60.00	Y01	3
451	22-1713	(d)	Corrupt influence in connection with athletic contests.	Y01	12.00	0	3
452	22-1714		Immunity of witnesses; record				3
453	22-2752		Engaging in an unlawful protest targeting a residence	D090	3.00	0	3
454	22-3312.02		Defacing or burning cross or religious symbol; display of certain emblems	D180	5.90	0	3
455	22-4331		Penalties; prosecutions.	D090	3.00	0	3
456	22-4402		Throwing or depositing matter in Potomac River.	M06	6.00	0	3
457	22-4403		Deposits of deleterious matter in Rock Creek or Potomac River.	D090	3.00	0	3
458	22-4404		Penalties for violation of § 22-4403.				3
459	0018DCMR1101		Loaning Vehicle Registration and Misuse of Tags (Improper Tags)	D030	1.00	0	4
460	0018DCMR1101.1		Loaning Vehicle Registration and Misuse of Tags	D030	1.00	0	4
461	0018DCMR1101.1-X		Loaning Vehicle Registration and Misuse of Tags (Display of Tags)	D030	1.00	0	4
462	0018DCMR1104.2		Falsified Vehicle Registration or Tags (Registration or Tags)	D030	1.00	0	4
463	0018DCMR1104.3		Falsified Vehicle Registration or Tags (Title)	D030	1.00	0	4
464	0018DCMR1104.4		Falsified Vehicle Registration or Tags (Counterfeit Tags)	D030	1.00	0	4
465	0018DCMR1110.2		Improper Conduct with Vehicle License (Loaning Permit)	D010	0.30	0	4
466	0018DCMR1200.8		Tampering with Secured Bike or Personal Mobility Device	D010	0.30	0	4
467	0018DCMR2000.2		Failure to Obey Police Officer	0		0	4
468	0018DCMR2200.12		Motor Vehicle Speeding 30 MPH Over Limit	D090	3.00	0	4
469	0019DCMR1309.1		Gambling On or Near Public Property	0		0	4
470	0024DCMR100.1		Unlawful Occupation of a Public Space at the Dock at Washington Harbour	0		0	4
471	0024DCMR121.1		Unauthorized Temporary Abode	0		0	4
472	0024DCMR2100.3		Crossing Police Line	0		0	4
473	0024DCMR500.5		Soliciting Ticket Sales	0		0	4

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474	01-0301.43		Obstruction of Council proceedings and investigations; penalty.	Y02	24.00	0	4
475	01-0739		Criminal penalties.	Y01	12.00	0	4
476	01-0909.08		Criminal penalties.	Y01	12.00	0	4
477	01-1001.08		Qualifications of candidates and electors; nomination and election of Delegate, Chairman of the Council, members of Council, Mayor, Attorney General, and members of Board of Education; petition requirements; arrangement of ballot.	M06	6.00	0	4
478	01-1001.10		Election of electors.	D030	1.00	0	4
479	01-1001.14	(a)	Corrupt election practices.	Y05	60.00	0	4
480	01-1001.14	(a-1)(2)	Corrupt election practices.	Y05	60.00	0	4
481	01-1001.14	(b)(1)	Corrupt election practices.	Y01	12.00	0	4
482	01-1001.14	(b)(2)	Corrupt election practices.	Y01	12.00	0	4
483	01-1001.14	(b)(3)	Corrupt election practices.	Y01	12.00	0	4
484	01-1001.14	(b)(4)	Corrupt election practices.	M06	6.00	0	4
485	01-1162.21		Penalties	Y01	12.00	0	4
486	01-1162.32		Penalties; prohibition from serving as lobbyist; citizen suits.	M12	12.00	0	4
487	01-1163.35	(c)	Penalties.	Y05	60.00	0	4
488	01-1163.35	(b)	Penalties.	M06	6.00	0	4
489	01-301.44a		Independence of legislative branch information technology	Y05	60.00	0	4
490	01-623.27		Representation; attorneys; fees	Y01	12.00	0	4
491	01-744		Prohibition against certain persons holding certain positions	Y01	12.00	0	4
492	02-0114		Filing information; penalties; separate offenses.	D090	3.00	0	4
493	02-0135		Regulation of plumbing; licensing of plumbers and gas-fitters; noncompliance.	D030	1.00	0	4
494	02-0381.09		Penalties for false representations.	Y01	12.00	0	4
495	02-0537		Administrative appeals.	0		0	4
496	02-0562		Penalties.	D030	1.00	0	4
497	02-0708	(a)	Penalties.	Y01	12.00	0	4
498	02-0708	(b)	Penalties.	Y01	12.00	0	4
499	02-0709	(b)	Unintentional violations.	Y01	12.00	0	4
500	02-0709	(a)	Unintentional violations.	0		0	4
501	02-0809		Penalty.	D030 PER DA	1.00	0	4
502	02-0827		Effective period of regulations and licenses; publication of regulations; penalties.	D030 PER DA	1.00	0	4
503	02-1402.64		Resisting the Office or Commission.	D010	0.30	0	4
504	02-1402.65		Falsifying documents and testimony.	D010	0.30	0	4
505	02-1402.66		Arrest records.	D010	0.30	0	4
506	02-1403.08		Posting of notice of complaint in housing accommodation.	D010	0.30	0	4
507	02-1543		Curfew authority; defenses; enforcement and penalties	0		0	4
508	02-1602		Persons who may be represented; appointment of private attorneys; determination of financial eligibility	Y01	12.00	0	4
509	02-218.64		Identification of certified business enterprises in bids or proposals; false statements on certification; penalties.	Y01	12.00	0	4

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510	03-0206		Unlawful acts.	Y01	12.00	0	4
511	03-0417		Penalties.	D090	3.00	0	4
512	03-0608		Violations of Commission rules; penalties.	Y01	12.00	0	4
513	03-1205.09a		Licenses for foreign doctors of eminence and authority.	0		0	4
514	03-1210.01		Practicing without license, registration, or certification.	Y01	12.00	0	4
515	03-1210.03		Certain representations prohibited.	Y02	24.00	0	4
516	03-1210.04		Filing false document or evidence; false statements.	Y03	36.00	0	4
517	03-1210.05		Fraudulent sale, obtaining, or furnishing of documents.	Y04	48.00	0	4
518	03-1210.06		§ 3–1210.06. Restrictions relating to pharmacies.	Y05	60.00	0	4
519	03-1315		Sale of lottery and daily numbers games tickets by licensed agents; unauthorized sale.	M06	6.00	0	4
520	03-1332		Aiding or abetting unauthorized bingo games, raffles, or Monte Carlo night parties; penalties.	M06	6.00	0	4
521	03-1333		Forged, counterfeit or altered tickets.	Y01	12.00	0	4
522	03-1334		Gambling by minor prohibited.	D030	1.00	0	4
523	04-0125		Assisting child to leave institution without authority; concealing such child; duty of police.	0		0	4
524	04-0218.01	(a)	Fraud in obtaining public assistance; repayment; liability of family members; penalties.	Y01	12.00	0	4
525	04-0218.01	(b)	Fraud in obtaining public assistance; repayment; liability of family members; penalties.	U		U	4
526	04-0218.03		Unauthorized use of identification card.	Y01	12.00	0	4
527	04-0218.05		Penalties.	D180	5.90	0	4
528	04-0324		Medical assistance.	D030	1.00	0	4
529	04-0513		False claims.	D180	5.90	0	4
530	04-0802		Penalties; prohibited acts.	Y01	12.00	0	4
531	04-1303.07		Unauthorized disclosure of records.	0		0	4
532	04-1305.09	(a)	Penalties for violation of confidentiality.	D180	5.90	0	4
533	04-1305.09	(b)	Penalties for violation of confidentiality.	D180	5.90	0	4
534	04-1321.07		Failure to make report.	D180	5.90	0	4
535	04-1371.14		Failure to make report.	D030	1.00	0	4
536	04-1408		Violations; prosecution.	D090	3.00	0	4
537	04-1501.10		Penalties for disclosing confidential information.	D180	5.90	0	4
538	05-0113.33		Penalties; private right of action.	Y01	12.00	0	4
539	05-0121.03		Acting without compliance with law.	M11D029	11.90	0	4
540	05-0121.05		Compromise of felony; withholding information; receiving compensation from person arrested or liable to arrest; permitting escape.	U		U	4
541	05-0123.01		Prohibitions; affiliation with organization advocating strikes; conspiracy to interfere with operation of police force by strike; notice of intention to resign.	M06	6.00	0	4
542	05-0123.02		Use of unnecessary or wanton force.	U		U	4
543	05-0125.03		Trachea hold prohibited; carotid artery hold restricted.	Y01	12.00	0	4
544	05-0132.21		School safe passage emergency zones.	M06	6.00	0	4
545	05-0207		Rules and regulations.	M06	6.00	0	4
546	05-0407		Resignation without notice; engaging in strike; conspiracy to obstruct operations of Department.	M06	6.00	0	4
547	05-1308		Protection of emergency 2-way radio communications - Penalties.	D090	3.00	0	4
548	05-1406		Deaths - Notification; penalties for noncompliance.	0		0	4

## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
	D.C. Code Statute or DCMR Citation	Sub section	Name	Max Prison D=day M=month Y = year	Max Prison (Months)	Min Prison	CCRC Status & Plan 1= Drafted; 2=FY21 Q3-Q4; 3=FY22 Q1-Q2; 4=No current plan
1							
549	06-0506		Penalties.	D030	1.00	0	4
550	06-0601.08		Violation of subchapter.	M06	6.00	D030	4
551	06-0731.04		Penalty.	D010	0.30	0	4
552	06-0808		Occupation of unsafe structure.	D030	1.00	0	4
553	06-0903		Condemnation procedure; occupancy of condemned buildings.	D090 PER DA	3.00	0	4
554	06-0904		Occupancy of condemned building.	D090 PER DA	3.00	0	4
555	06-0905		Owner to repair or demolish condemned building.	D090 PER DA	3.00	0	4
556	06-0907		Failure of owner to comply with order; repair or demolition of building; cost assessed against property	D090 PER DA	3.00	0	4
557	06-0911		Interference with inspection or work.	D090 PER DA	3.00	0	4
558	06-0912		Destruction, removal, or concealment of copy of order of condemnation affixed to building	D090 PER DA	3.00	0	4
559	06-0915		Neglect by tenants or occupants	D090 PER DA	3.00	0	4
560	06-1110		Penalties; remedies; enforcement.	D090 PER DA	3.00	0	4
561	06-1406		Penalties.	D090	3.00	0	4
562	07-0131		Regulations to prevent spread of communicable diseases.	D090	3.00	0	4
563	07-0136		Persons believed to be carriers of communicable diseases - Leaving detention without discharge.	D090	3.00	0	4
564	07-0138		Access to building for inspection	D090	3.00	0	4
565	07-0139		Interference unlawful	D090	3.00	0	4
566	07-0225		Penalties.	D090	3.00	0	4
567	07-0304	(b)	Penalties; prosecutions.	D090	3.00	0	4
568	07-0304	(a)	Penalties; prosecutions.	0		0	4
569	07-0627		Extent of medical liability; transfer of patient; criminal offenses.	Y03	36.00	0	4
570	07-0704.01	(d)	Enforcement; penalties.	D180	5.90	0	4
571	07-0704.01	(e)	Enforcement; penalties.	D180	5.90	0	4
572	07-0704.01	(c)	Enforcement; penalties.	D030	1.00	0	4
573	07-0744	((1)	Penalties.	0		0	4
574	07-0744	((2)	Penalties.	0		0	4
575	07-0744	((3)	Penalties.	0		0	4
576	07-0804		Penalty.	0		0	4
577	07-0871.05		Penalties.	Y01	12.00	0	4
578	07-1007		Penalties.	D090	3.00	0	4
579	07-1207.02	(b)	Criminal penalties.	D090	3.00	0	4
580	07-1207.02	(a)	Criminal penalties.	D060	2.00	0	4
581	07-1501.02		Penalties; prosecutions.	M06	6.00	0	4
582	07-1531.15		Sale or purchase of parts prohibited.	Y05	60.00	0	4
583	07-1531.16		Other prohibited acts.	Y05	60.00	0	4
584	07-1541.04		Penalties; prosecutions.	D090	3.00	0	4
585	07-1671.08		Penalties.	0		0	4
586	07-1721.02		Sale of tobacco to minors under 18 years of age.	D030	1.00	0	4
587	07-1721.04		Self-service sale of tobacco.	D090	3.00	0	4
588	07-1721.05		Package requirements.	D030	1.00	0	4
589	07-1721.06		Prohibited sellers.	D030	1.00	0	4
590	07-1803.06		Penalties and other remedies.	Y01	12.00	0	4
591	07-1912	(a)(1)	Penalties; enforcement.	0		0	4
592	07-1912	(a)(2)	Penalties; enforcement.	0		0	4

## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
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1							
593	07-1912	(a)(3)	Penalties; enforcement.	0		0	4
594	07-2046		Criminal and civil penalties.	M06	6.00	0	4
595	07-2108	(g)	Enforcement and penalties.	D090	3.00	0	4
596	07-2108	(f)	Enforcement and penalties.	0		0	4
597	07-2341.24		Criminal and civil penalties.	D180	5.90	0	4
598	07-246		Criminal penalties for unlawful use or disclosure	D180	5.90	0	4
599	07-246		Criminal penalties for unlawful use or disclosure	D060	2.00	0	4
600	07-2505.01		Sales and transfers prohibited.	Y01	12.00	0	4
601	07-2507.06	(a)(1)	Penalties.	Y10	120.00	0	4
602	07-2507.06	(a)(3)(A)	Penalties.	Y10	120.00	Y01	4
603	07-2507.06	(a)(2)(B)	Penalties.	Y01	12.00	0	4
604	07-2507.06	(a)(3)(B)	Penalties.	Y01	12.00	0	4
605	07-2508.07		Penalties; mandatory release condition.	M12	12.00	0	4
606	07-2509.04	(c)	Failure to Carry a Concealed Pistol License	D180	5.90	0	4
607	07-2854	(b)(1)	Penalties.	D030	1.00	0	4
608	08-0103.16	(a)(2)	Penalties.	Y01	12.00	0	4
609	08-0103.16	(b)(2)	Penalties.	M06	6.00	0	4
610	08-0103.16	(a)(2)	Penalties.	D090	3.00	0	4
611	08-0105.14		Penalties.	Y01 PER DAY	12.00	0	4
612	08-0111.09		Criminal action.	Y01	12.00	0	4
613	08-0203		Failure to make required connections.	0		0	4
614	08-0205		Definitions; repair, maintenance, and renewal of water service pipes and building sewers; compensation to property owners; false claims for compensation; severability.	Y01	12.00	0	4
615	08-0231.16		Criminal penalties.	Y01	12.00	0	4
616	08-0305		Penalty.	Y01	12.00	0	4
617	08-0418		Penalties.	D090	3.00	0	4
618	08-0505		Violations of § 8-502, § 8-504, or § 8-507.	M06	6.00	0	4
619	08-0604		Penalties.	D015	0.50	0	4
620	08-0632.01		Liabilities.	Y05	60.00	0	4
621	08-0704		Collection and disposal of refuse authorized as municipal function; purchase or lease of facilities; sale of products; gratuities prohibited; mutual aid agreements for debris removal.	0		0	4
622	08-0708		Incinerators for combustible refuse - Penalties.	D060	2.00	0	4
623	08-0902	(b)(3)	Prohibition and penalties.	Y05	60.00	0	4
624	08-0902	(b)(4)	Prohibition and penalties.	Y05	60.00	0	4
625	08-0902	(b)(2)	Prohibition and penalties.	D090	3.00	0	4
626	08-101.05d		Criminal penalties.	Y01	12.00	0	4
627	08-101.05e		False statements.	M06	6.00	0	4
628	08-1060	(g)	Remedies and penalties.	M12	12.00	0	4
629	08-1060	(i)	Remedies and penalties.	D030	1.00	0	4
630	08-1311		Penalties.	Y01	12.00	0	4
631	08-1404		Penalties.	Y01 PER DAY	12.00	0	4
632	08-1831.01		Release of animals.	D180	5.90	0	4
633	08-1906		Penalties.	D090	3.00	0	4
634	08-2103.05		Rodent harborage prohibited.	D090	3.00	0	4
635	09-0431.01		Permit required; exceptions.	M06	6.00	0	4
636	09-0433.01		Permit required; exceptions.	M06	6.00	0	4

## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
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1							
637	09-0705		Penalty.	M06	6.00	0	4
638	09-0810		Penalty.	M06	6.00	0	4
639	09-1115.03	58	Woodrow Wilson Bridge and Tunnel Compact.	Y01	12.00	0	4
640	09-1115.03	59	Woodrow Wilson Bridge and Tunnel Compact.	D030	1.00	0	4
641	10-0137.01		Authority of the Director of the Department of Recreation and Parks to regulate District parks.	D090	3.00	0	4
642	10-0503.12		Public travel in and occupancy of restricted.	M06	6.00	0	4
643	10-0503.13		Obstruct Roadway on US Capitol Grounds	M06	6.00	0	4
644	10-0503.14		Sale of goods, advertising, or begging forbidden.	M06	6.00	0	4
645	10-0503.15		Removal or Injury of Property Forbidden	M06	6.00	0	4
646	10-0503.16	(a)	Unlawful conduct Capitol Grounds	Y05	60.00	0	4
647	10-0503.16	(b)	Unlawful conduct.	M06	6.00	0	4
648	10-0503.17		Parades, assemblages, and displays forbidden.	M06	6.00	0	4
649	10-0503.20	(d)	Protection of Congressional personnel by Capitol Police.	Y01	12.00	0	4
650	10-0509.03		Penalty for violation of rules and regulations.	M06	6.00	0	4
651	10-1104.04		Penalties.	D010	0.30	0	4
652	10-1181.07		Enforcement	D090	3.00	0	4
653	11-0944		Contempt power.	U		0	4
654	11-1906	(d)	Qualification of jurors.	D090	3.00	0	4
655	11-1906	(c)(1)	Qualification of jurors.	D007	0.25	0	4
656	11-1907		Summoning of prospective jurors.	D007	0.25	0	4
657	11-1913		Protection of employment of jurors.	D030	1.00	0	4
658	11-1915		Fraud in the selection process.	Y02	24.00	0	4
659	11-2606		Receipt of other payments.	Y01	12.00	0	4
660	16-0402		Prohibitions and penalties.	Y01	12.00	0	4
661	16-1005	(f)	Hearing; evidence; protection order.	D180	5.90	0	4
662	16-1005	(g)	Hearing; evidence; protection order.	D180	5.90	0	4
663	16-2336		Unlawful disclosure of records; penalties	D090	3.00	0	4
664	16-2348		Parentage records; confidentiality; inspection and disclosure.	D090	3.00	0	4
665	16-2364		Unlawful disclosure.	D090	3.00	0	4
666	16-2394		Unlawful disclosure.	D090	3.00	0	4
667	16-5102		Service of summons.	D180	5.90	0	4
668	18-0112		Taking and carrying away, or destroying, mutilating, or secreting will.	Y05	60.00	0	4
669	19-0101.06		Penalties.	0		0	4
670	20-0102		Verification.	Y10	120.00	Y02	4
671	21-0591		Offenses and penalties.	Y03	36.00	0	4
672	22-3218.01		[Theft of Utility Service] Definitions.				4
673	22-3218.02		Theft of Utility Service] Unlawful acts	D060	2.00	0	4
674	22-3218.03		Theft of Utility Service] Presumptions and rebuttal evidence.				4
675	22-3218.04		Theft of Utility Service] Penalties for violation.	D180	5.90	0	4
676	22-3225.01		[Insurance fraud] Definitions.				4
677	22-3225.02		[Insurance fraud] Insurance fraud in the first degree	Y15	180.00	0	4
678	22-3225.03		Insurance fraud in the second degree	Y05	60.00	0	4
679	22-3225.03a		[Insurance fraud] Misdemeanor insurance fraud	D180	5.90	0	4
680	22-3225.04		[Insurance fraud] Penalties.				4
681	22-3225.05		[Insurance fraud] Restitution.				4

## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

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1							
682	22-3225.06		[Insurance fraud] Indemnity.				4
683	22-3225.07		[Insurance fraud] Practitioners.				4
684	22-3225.08		[Insurance fraud] Investigation and report of insurance fraud.				4
685	22-3225.09		[Insurance fraud] Insurance fraud prevention and detection.				4
686	22-3225.10		[Insurance fraud] Regulations.				4
687	22-3225.11		[Insurance fraud] Limited law enforcement authority.				4
688	22-3225.12		[Insurance fraud] Annual anti-fraud activity reporting requirement.				4
689	22-3225.13		[Insurance fraud] Immunity.				4
690	22-3225.14		[Insurance fraud] Prohibition of solicitation.				4
691	22-3225.15		[Insurance fraud] Jurisdiction.				4
692	22-3226.01		[Telephone fraud] Definitions.				4
693	22-3226.02		[Telephone fraud] Application for a certificate of registration of telephone solicitor.				4
694	22-3226.03		[Telephone fraud] Surety bond requirements for telephone solicitors.				4
695	22-3226.04		[Telephone fraud] Penalties.				4
696	22-3226.05		[Telephone fraud] Restitution.				4
697	22-3226.06		[Telephone fraud] Telephone Solicitation	Y04	48.00	0	4
698	22-3226.06		[Telephone fraud] Telephone Solicitation	Y03	36.00	0	4
699	22-3226.06		[Telephone fraud] Telephone Solicitation	M06	6.00	0	4
700	22-3226.07		[Telephone fraud] Deceptive acts and practices prohibited.				4
701	22-3226.08		[Telephone fraud] Abusive telemarketing acts or practices.				4
702	22-3226.09		[Telephone fraud] Civil penalties.				4
703	22-3226.10		[Telephone fraud] Criminal penalties.				4
704	22-3226.11		[Telephone fraud] Private right of action.				4
705	22-3226.12		[Telephone fraud] Statute of limitations period.				4
706	22-3226.13		[Telephone fraud] Task force to combat fraud.				4
707	22-3226.15		[Telephone fraud] General disclosures.				4
708	22-3311		Disorderly conduct in public buildings or grounds; injury to or destruction of United States property.	M06	6.00	0	4
709	22-3803		[Sexual Psychopaths] Definitions.				4
710	22-3804		[Sexual Psychopaths] Filing of statement.				4
711	22-3805		[Sexual Psychopaths] Right to counsel.				4
712	22-3806		[Sexual Psychopaths] Examination by psychiatrists.				4
713	22-3807		[Sexual Psychopaths] When hearing is required.				4
714	22-3808		[Sexual Psychopaths] Hearing; commitment.				4
715	22-3809		[Sexual Psychopaths] Parole; discharge.				4
716	22-3810		[Sexual Psychopaths] Stay of criminal proceedings.				4
717	22-3811		[Sexual Psychopaths] Criminal law unchanged.				4
718	22-3901		[HIV Testing of Certain Criminal Offenders] Definitions.				4
719	22-3902		[HIV Testing of Certain Criminal Offenders] Testing and counseling				4
720	22-3903		[HIV Testing of Certain Criminal Offenders] Rules.				4
721	22-4001		[Sex offender registration] Definitions.				4



## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
1	D.C. Code Statute or DCMR Citation	Sub section	Name	Max Prison D=day M=month Y = year	Max Prison (Months)	Min Prison	CCRC Status & Plan 1= Drafted; 2=FY21 Q3-Q4; 3=FY22 Q1-Q2; 4=No current plan
722	22-4002		[Sex offender registration] Registration period.				4
723	22-4003		[Sex offender registration] Certification duties of the Superior Court.				4
724	22-4004		[Sex offender registration] Dispute resolution procedures in the Superior Court.				4
725	22-4005		[Sex offender registration] Duties of the Department of Corrections.				4
726	22-4006		[Sex offender registration] Duties of the Department of Mental Health.				4
727	22-4007		[Sex offender registration] Registration functions of the Court Services and Offender Supervision Agency.				4
728	22-4008		[Sex offender registration] Verification functions of the Court Services and Offender Supervision Agency.				4
729	22-4009		[Sex offender registration] Change of address or other information.				4
730	22-4010		[Sex offender registration] Maintenance and release of sex offender registration information by the Court Services and Offender Supervision Agency.				4
731	22-4011		[Sex offender registration] Community notification and education duties of the Metropolitan Police Department.				4
732	22-4012		[Sex offender registration] Interagency coordination.				4
733	22-4013		[Sex offender registration] Immunity.				4
734	22-4014		[Sex offender registration] Duties of sex offenders.				4
735	22-4016		[Sex offender registration] No change in age of consent; registration not required for offenses between consenting adults.				4
736	22-4017		[Sex offender registration] Freedom of Information Act exception.				4
737	22-4131		[DNA Testing and Post-Conviction Relief for Innocent Persons] Definitions.				4
738	22-4132		[DNA Testing and Post-Conviction Relief for Innocent Persons] Pre-conviction DNA testing.				4
739	22-4133		[DNA Testing and Post-Conviction Relief for Innocent Persons] Post-conviction DNA testing.				4
740	22-4134		[DNA Testing and Post-Conviction Relief for Innocent Persons] Preservation of evidence	Y05	60.00	0	4
741	22-4135		[DNA Testing and Post-Conviction Relief for Innocent Persons] Motion to vacate a conviction or grant a new trial on the ground of actual innocence.				4
742	22-4151		[DNA Sample Collection] Qualifying offenses.				4
743	22-4201		[National Institute of Justice Appropriations] Technical assistance and research.				4
744	22-4231		[Criminal Justice Coordinating Council] Definitions.				4
745	22-4232		[Criminal Justice Coordinating Council] Establishment of the Criminal Justice Coordinating Council.				4
746	22-4233		[Criminal Justice Coordinating Council] Membership.				4
747	22-4234		[Criminal Justice Coordinating Council] Duties.				4
748	22-4235		[Criminal Justice Coordinating Council] Administrative support.				4



## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
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1							
749	22-4241		[Criminal Justice Coordinating Council] Authorizing federal officials.				4
750	22-4242		[Criminal Justice Coordinating Council] Annual reporting requirement.				4
751	22-4243		[Criminal Justice Coordinating Council] Federal contribution to Criminal Justice Coordinating Council.				4
752	22-4244		[Criminal Justice Coordinating Council] District of Columbia Criminal Justice Coordinating Council defined.				4
753	22-4251		Comprehensive Homicide Elimination Strategy Task Force.				4
754	23-0542		Interception, disclosure, and use of wire or oral communications prohibited.	Y05	60.00	0	4
755	23-0543		Possession, sale, distribution, manufacture, assembly, and advertising of wire or oral communication intercepting devices prohibited.	Y05	60.00	0	4
756	23-1103		Procuring business through official or attorney for a consideration prohibited.	D060	2.00	D010	4
757	23-1104		Attorneys procuring employment through official or bondsman for a consideration prohibited	D060	2.00	D010	4
758	23-1105		Receiving other than regular fee for bonding prohibited; bondsmen prohibited from endeavoring to secure dismissal or settlement.	D060	2.00	D010	4
759	23-1107		Bondsmen prohibited from entering place of detention unless requested by prisoner; record of visit to be kept.	D060	2.00	D010	4
760	23-1108		Qualifications of bondsmen; rules to be prescribed by courts; list of agents to be furnished; renewal of authority to act; detailed records to be kept; penalties and disqualifications.	M06	6.00	0	4
761	23-1109		Giving advance information of proposed raid prohibited.	D060	2.00	D010	4
762	23-1110		Designation of official to take bail or collateral when court is not in session; issuance of citations.	D180	5.90	0	4
763	24-0241.05		Suspension of work release privilege; violations of work release plan.	D180	5.90	0	4
764	24-0251.04	(b)	Procedures.	Y05	60.00	0	4
765	25-0434		Influencing the application process.	D090	3.00	0	4
766	25-0772		Unlawful importation of beverages.	M06	6.00	0	4
767	25-0781		Sale to minors or intoxicated persons prohibited.	0		0	4
768	25-0785	(c)(1)	Delivery, offer, or otherwise making available to persons under 21; penalties.	D180	5.90	0	4
769	25-0831	(b)	Penalty for violation where no specific penalty provided; additional penalty for failure to perform certain required acts.	Y03	36.00	0	4
770	25-0831	(a)	Penalty for violation where no specific penalty provided; additional penalty for failure to perform certain required acts.	Y01	12.00	0	4
771	25-1002	(c)(4)(D)	Purchase, possession or consumption by persons under 21; misrepresentation of age; penalties.	D030	1.00	0	4

CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
1	D.C. Code Statute or DCMR Citation	Sub section	Name	Max Prison D=day M=month Y = year	Max Prison (Months)	Min Prison	CCRC Status & Plan 1= Drafted; 2=FY21 Q3-Q4; 3=FY22 Q1-Q2; 4=No current plan
772	25-1002	(c)(1)(A)	Purchase, possession or consumption by persons under 21; misrepresentation of age; penalties.	0		0	4
773	26-0103		Banking businesses to be organized under local or federal provisions; approval of Commissioner of the Department of Insurance, Securities, and Banking required; liquidation of solvent institutions; discontinuance of operation; violations; establishment of international banking facility.	Y01	12.00	0	4
774	26-0107		Restriction on use of words "bank" and "trust company"; violations.	0		0	4
775	26-0204		Object; supervision by federal board; strict compliance with provisions required; exception; violations.	Y02	24.00	0	4
776	26-0323		Penalties.	0		0	4
777	26-0551.21		Penalty for violation of final order.	Y01	12.00	0	4
778	26-0634		Requirements for international banking corporation activities.	Y01	12.00	0	4
779	26-0907		Violations	D090	3.00	D030	4
780	26-1023	(c)	Criminal Penalties	Y05	60.00	0	4
781	26-1023	(b)	Criminal Penalties	Y03	36.00	0	4
782	26-1023	(a)	Criminal Penalties	Y01	12.00	0	4
783	26-1335		Compliance required of foreign corporations or companies.	Y01	2.00	0	4
784	28-2305		Contract to assign future salary or wages.	D060	2.00	0	4
785	28-3313		Penalties	Y01	12.00	0	4
786	28-3817		Health spa sales.	0		0	4
787	28-4502		Contract, combination, or conspiracy to restrain trade	Y01	12.00	0	4
788	28-4503		Monopolization	Y01	12.00	0	4
789	28-4505	(h)	Civil investigative demand.	Y01	12.00	0	4
790	28-4505	(l)	Civil investigative demand.	0		0	4
791	28-4607		Penalties	Y01	12.00	0	4
792	31-0202		General duties of Commissioner; companies or associations to file certain information; service of legal process; rules and regulations.	0		0	4
793	31-0603		Statements to be filed by beneficial owners, directors, or officers; sales restrictions; exemptions; equity security defined; rules and regulations; violations; effective date.	D030	1.00	0	4
794	31-0710	(e)	Sanctions	Y05	60.00	Y03	4
795	31-0710	(d)(3)	Sanctions	Y03	36.00	Y01	4
796	31-0710	(d)(2)	Sanctions	0		0	4
797	31-1305		Cooperation of officers, owners, and employees	Y01	12.00	0	4
798	31-2408.01		Uninsured Motorist Fund.	Y01	12.00	0	4
799	31-2413		Penalties; adjudications	D030	1.00	0	4
800	31-2502.09		Making or publishing material false statements	Y05	60.00	0	4
801	31-2502.39		Persons not to act for unauthorized companies	Y01	12.00	0	4
802	31-2502.42		Violations of provisions	Y01	12.00	0	4
803	31-3431		Principal office, books, records, and files of the health maintenance organization to be in the District.	0		0	4
804	31-3521		Sanctions for violations.	Y01	12.00	0	4

## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
	D.C. Code Statute or DCMR Citation	Sub section	Name	Max Prison D=day M=month Y = year	Max Prison (Months)	Min Prison	CCRC Status & Plan 1= Drafted; 2=FY21 Q3-Q4; 3=FY22 Q1-Q2; 4=No current plan
1							
805	31-4310		Representation of financial standing - Alien companies; violations.	0		0	4
806	31-4415		Capital stock records	0		0	4
807	31-4601		Violations	0		0	4
808	31-5201		Maintenance of reinsurance reserve fund by life and fire insurance companies or associations; suspension or revocation of license for insolvency or impairment of capital; aiding unlicensed companies or associations; issuance of license.	D060	2.00	D010	4
809	31-5204		Principal office and books, records, and files of corporation to be in District; exception; reincorporation of certain corporations; violations; prosecutions.	D090	3.00	0	4
810	31-5332	(d)	Penalties	Y10	120.00	0	4
811	31-5332	(a)	Penalties	Y01	12.00	D030	4
812	31-5332	(b)	Penalties	Y01	12.00	D030	4
813	31-5332	(c)	Penalties	0		0	4
814	31-5606.04	(a)	Criminal penalties	Y01	12.00	0	4
815	31-5606.04	(b)	Criminal penalties	U		U	4
816	31-5606.04	(c)	Criminal penalties	U		U	4
817	32-0213	(b)	Penalties	D030	1.00	D010	4
818	32-0220		Persons selling merchandise to minor for resale or distribution to ascertain that minor wears badge; penalties; exception	D030	1.00	D010	4
819	32-0221		Loitering around business establishments prohibited during school hours; penalty	D030	1.00	D010	4
820	32-0414		Penalties	Y01	12.00	0	4
821	32-0812		Penalties for violation of subchapter; jurisdiction; prosecution	D090	3.00	0	4
822	32-0902		Use prohibited; exceptions.	D030	1.00	0	4
823	32-1010		Penalties; prosecution	M06	6.00	0	4
824	32-1121	(a)	Criminal penalties	M06	6.00	0	4
825	32-1121	(b)	Criminal penalties	M06	6.00	0	4
826	32-1121	(c)	Criminal penalties	M06	6.00	0	4
827	32-1307		Penalties	D030	1.00	0	4
828	32-1308.01	(l)(4)	Administrative actions on employee complaints.	D060	2.00	0	4
829	32-1308.01	(l)(5)	Administrative actions on employee complaints.	D060	2.00	0	4
830	32-1516		Invalid agreements	0		0	4
831	32-1530		Attorney fees	Y01	12.00	0	4
832	32-1533		Penalty for misrepresentation	Y01	12.00	0	4
833	32-1539		Failure to secure payment of compensation	Y01	12.00	0	4
834	32-213		Penalties.	D030	1.00	D010	4
835	34-0301		Public Service Commission; general powers	0		0	4
836	34-0701		False statements in securing approval for stock issue	Y01	12.00	0	4
837	34-0702		Demanding or receiving greater or less than established rates	0		0	4
838	34-0704		Rebates	0		0	4
839	34-0705		Failure or refusal to furnish information; furnishing false information; failure to keep proper accounts	0		0	4
840	34-0707		Destruction of apparatus or appliance of Commission	D030	1.00	0	4
841	34-0731		Prosecution for violation of rules	0		0	4

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	A	B	C	D	E	F	G
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1							
842	34-1264.02	(c)	Cable theft	Y10	120.00	0	4
843	34-1264.02	(b)(2)	Cable theft	Y01	12.00	0	4
844	34-1264.02	(b)(3)	Cable theft	Y01	12.00	0	4
845	34-1264.02	(b)(4)	Cable theft	Y01	12.00	0	4
846	34-1264.02	(b)(5)	Cable theft	Y01	12.00	0	4
847	34-1264.02	(b)(1)	Cable theft	M06	6.00	0	4
848	34-2304	(e)	Appointment of receiver	M06	6.00	0	4
849	34-2304	(e)	Appointment of receiver	D030	1.00	0	4
850	34-2401.20		Unlawful tapping of water pipe; penalty	Y01	12.00	0	4
851	34-2401.22		Penalty for damaging or defacing water pipes	Y02	24.00	0	4
852	34-2502		Penalty for refusal to remove conduits	0		0	4
853	35-0211		Removal of disused tracks; penalty for noncompliance.	0		0	4
854	35-0251	(c)	Unlawful conduct on public passenger vehicles.	D090	3.00	0	4
855	35-0251	(d)	Unlawful conduct on public passenger vehicles.	D090	3.00	0	4
856	35-0251	(b)	Unlawful conduct on public passenger vehicles.	0		0	4
857	36-0102		Unauthorized use or sale of registered bottles.	0		0	4
858	36-0130		Prosecutions; penalties	0		0	4
859	36-0153		Unauthorized use, defacing, or sale of registered vessel	Y01	12.00	D010	4
860	36-0202		Unauthorized use of registered label; injunctive relief.	Y01	12.00	M03	4
861	36-0302.05		Violations; notice, order, injunction, and penalties.	D090	3.00	0	4
862	36-0304.01		Prohibition on conversions.	0		0	4
863	37-201.16		Substitutes for dry measure prohibited.	U		U	4
864	37-201.32		Penalties; conduct of prosecutions.	M06	6.00	0	4
865	38-0203		Enforcement; penalties.	D005	0.15	0	4
866	38-0303		Regulations determining tuition requirement; penalties; prosecutions.	D090	3.00	0	4
867	38-0303		Regulations determining tuition requirement; penalties; prosecutions.	D030	1.00	0	4
868	38-0312		False information; penalty.	D090	3.00	0	4
869	38-1312		Violations; penalties	0		0	4
870	38-1403		Penalty for failure to register	D090	3.00	D030	4
871	39-0108		Confidentiality of circulation records	0		0	4
872	41-0204		False statements; failure to render termination statement; "Attorney General" defined	Y01	12.00	0	4
873	42-1121		Illegal acts relating to stamps and other devices; penalties.	Y03	36.00	0	4
874	42-1708		Additional criminal penalties.	Y01	12.00	0	4
875	42-1904.02		No offer or disposition of unit prior to registration; current public offering statement; right of cancellation by purchaser; form therefor prescribed by Mayor.	M06	6.00	0	4
876	42-1904.17		Penalties; prosecution by Attorney General.	M06	6.00	0	4
877	42-2435		Criminal penalties	Y01	12.00	0	4
878	42-3131.02		Inspection of buildings for violative conditions; interference with inspection	M03	3.00	0	4
879	42-3131.10		Penalties for noncompliance	0		0	4
880	42-3304		Penalties	D030	1.00	0	4
881	42-3405.10		Penalties	M06	6.00	0	4
882	42-3509.08		Inspection of rental housing	M03	3.00	0	4
883	43-0120		Keeping and exhibiting dead bodies.	D090	3.00	0	4
884	44-0151.15	(b)	Criminal penalties	Y03	36.00	0	4

CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
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1							
885	44-0151.15	(a)	Criminal penalties	Y01	12.00	0	4
886	44-0151.15	(b)	Criminal penalties	D180	5.90	0	4
887	44-0212		Penalties and enforcement	D090	3.00	0	4
888	44-0416		Violations and penalties for noncompliance.	D010	0.30	0	4
889	44-0509	(f)(2)	Penalties; enforcement.	D180	5.90	0	4
890	44-0509	(a)	Penalties; enforcement.	D090	3.00	0	4
891	44-0509	(d)(1)(A)	Penalties; enforcement.	D090	3.00	0	4
892	44-0553		Penalties for unauthorized released of criminal information.	D030	1.00	0	4
893	44-0609		Violations and penalties for noncompliance.	0		0	4
894	44-1712		Penalties; prosecutions; actions to enjoin.	D060	2.00	0	4
895	46-0224.02		Parent locator service	M03	3.00	0	4
896	46-0225.02		Criminal contempt remedy for failure to pay child support	D180	5.90	0	4
897	46-0421		Violations; prosecutions.	M06	6.00	0	4
898	47-0102		Total indebtedness not to be increased	Y10	120.00	0	4
899	47-0351.15		Penalties	0		0	4
900	47-0391.03		Powers of Authority	Y01	12.00	0	4
901	47-0813		Classes of property.	D180	5.90	0	4
902	47-0821		Assessments--General duties of Mayor; appointment of assessors; submission of information by property owners.	D180	5.90	0	4
903	47-0828		Violations of assessment provisions	Y01	12.00	0	4
904	47-0850.02		Residential property tax relief--One-time filing, notification of change in eligibility, liability for tax, audit.	D180	5.90	0	4
905	47-0863		Reduced tax liability for property owners over age 65 and for property owners with disabilities; rules.	D180	5.90	0	4
906	47-1805.02		Returns - Persons required to file	0		0	4
907	47-1805.04		Returns - Divulgence of information	Y01	12.00	0	4
908	47-2014		Assumption or refund of tax by vendor unlawful; penalties	M06	6.00	0	4
909	47-2018		Secrecy of returns; reciprocity	Y01	12.00	0	4
910	47-2026		Certificate of registration	0		0	4
911	47-2106		Penalty for conducting false "closing-out sales" and for violation of this chapter; prosecutions	D090	3.00	0	4
912	47-2405		Transportation of cigarettes	Y03	36.00	0	4
913	47-2406		Offenses relating to stamps	Y05	60.00	0	4
914	47-2408	(c)	Records; reports; returns	Y01	12.00	0	4
915	47-2408	(d)	Records; reports; returns	Y01	12.00	0	4
916	47-2409		Seizure and forfeiture of property	Y01	12.00	0	4
917	47-2419		Documentation.	Y03	36.00	0	4
918	47-2421		Prohibitions on gray market cigarettes.	Y03	36.00	0	4
919	47-2604		Penalty for engaging in business without license or certificate of authority	0		0	4
920	47-2707		Prosecutions	D060	2.00	0	4
921	47-2808		Auctioneers; temporary licenses; penalty for failure to account.	M06	6.00	0	4
922	47-2809.01		Body art establishments.	M03	3.00	0	4

## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

	A	B	C	D	E	F	G
	D.C. Code Statute or DCMR Citation	Sub section	Name	Max Prison D=day M=month Y = year	Max Prison (Months)	Min Prison	CCRC Status & Plan 1= Drafted; 2=FY21 Q3-Q4; 3=FY22 Q1-Q2; 4=No current plan
1							
923	47-2811		Massage establishments; Turkish, Russian, or medicated baths.	D090	3.00	0	4
924	47-2828		Failure to Obtain Business License with Housing Residential Endorsement	D090	3.00	0	4
925	47-2839.01		Security agencies.	Y01	12.00	0	4
926	47-2846		Penalties	D090	3.00	0	4
927	47-2850		Rules governing the business of furnishing towing services for motor vehicles.	D090	3.00	0	4
928	47-2853.26		False representation of authority to practice.	Y01	12.00	0	4
929	47-2853.27		Fines and penalties; criminal violations.	Y01	12.00	0	4
930	47-2853.73		Certain representations prohibited.	Y01	12.00	0	4
931	47-2853.76e		Prohibitions and penalties.	M03	3.00	0	4
932	47-2853.83		Certain representations prohibited.	Y01	12.00	0	4
933	47-2883.02		Bond requirements.	D090	3.00	0	4
934	47-2883.04		Penalty	D090	3.00	0	4
935	47-2884.16		Penalties for violation of part; loan declared void; pledge returned.	D090	3.00	0	4
936	47-2885.20		Penalties; prosecutions; injunction.	M06	6.00	0	4
937	47-2886.14		Unlawful acts.	Y01	12.00	0	4
938	47-2887.13		Prohibited conduct.	M06	6.00	0	4
939	47-2888.07	(a)	Penalties.	D090	3.00	0	4
940	47-2888.07	(b)	Penalties.	D090	3.00	0	4
941	47-2888.07	(c)	Penalties.	D090	3.00	0	4
942	47-2907		Restaurants, hotels, barber shops, bathing houses, ice cream saloons, and soda fountains required to serve well-behaved persons.	0		0	4
943	47-3409		Divulging information obtained from Internal Revenue Service prohibited; penalties	D090	3.00	0	4
944	47-3506		Administration and enforcement - Qualifying nonprofit housing organizations and cooperative housing associations	D180	5.90	0	4
945	47-3719		Secrecy of returns.	Y01	12.00	0	4
946	47-4101	(a)	Attempt to evade or defeat tax	Y10	120.00	0	4
947	47-4101	(b)	Attempt to evade or defeat tax	D180	5.90	0	4
948	47-4102	(a)	Failure to collect or pay over tax	Y10	120.00	0	4
949	47-4102	(b)	Failure to collect or pay over tax	D180	5.90	0	4
950	47-4103	(a)	Failure to pay tax, make return, keep records, or supply information	D180	5.90	0	4
951	47-4103	(b)	Failure to pay tax, make return, keep records, or supply information	D180	5.90	0	4
952	47-4104		Fraudulent statements or failure to make statements to employee	D180	5.90	0	4
953	47-4105		Fraudulent withholding information or failure to supply information to employer	D180	5.90	0	4
954	47-4106	(a)	Fraud and false statements	D180	5.90	0	4
955	47-4106	(b)	Fraud and false statements	D180	5.90	0	4
956	47-4106	(c)	Fraud and false statements	D180	5.90	0	4
957	47-4106	(d)	Fraud and false statements	D180	5.90	0	4
958	47-4107	(a)	Attempt to interfere with administration of District of Columbia revenue laws	D180	5.90	0	4

## CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

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1							
959	47-4107	(b)	Attempt to interfere with administration of District of Columbia revenue laws	D180	5.90	0	4
960	47-4405		Collections through third party contractors	D180	5.90	0	4
961	47-4406		Secrecy of returns	D180	5.90	0	4
962	48-0109		Prosecutions; violations	Y01	12.00	0	4
963	48-0702		Prohibitions.	0		0	4
964	48-0921.02		Search warrants; issuance, execution and return; property inventory; filing of proceedings; interference with service	Y02	240.00	0	4
965	48-1004		Prohibition. (Congregating in Drug Free Zone)	D180	5.90	0	4
966	49-0106		Rules for parades and encampments	0		0	4
967	49-0205		Penalty for selling, pawning, injuring, or retaining public property	M02	2.00	0	4
968	49-0507		Witnesses; compulsory attendance	D030	1.00	0	4
969	50-0326		Modernization of taxicabs.	D180	5.90	0	4
970	50-0329.05	(a)(2)	Fleeing from a public vehicle inspection officer in a public vehicle-for-hire.	Y05	60.00	0	4
971	50-0329.05	(a)(1)	Fleeing from a public vehicle inspection officer in a public vehicle-for-hire.	D180	5.90	0	4
972	50-0405	(b)(1)	Penalties	M06	6.00	0	4
973	50-0505		Disclosure of damages or defects in used motor vehicles; violations; penalties	0		0	4
974	50-0607		Penalties	M06	6.00	0	4
975	50-1215		False statements as to liens; violations of law chapter	Y01	12.00	0	4
976	50-1301.74		Failure to return license or registration; penalty	D030	1.00	0	4
977	50-1301.75		Penalty for violations of chapter	D090	3.00	0	4
978	50-1331.08		Penalties	D180	5.90	0	4
979	50-1401.01	(d)	Fee; examination; age requirements; lost permits; provisions for armed forces personnel; contents; operation without permit prohibited; restrictions for minors	D090	3.00	0	4
980	50-1401.02		Exemptions	D030	1.00	0	4
981	50-1403.01		Revocation or suspension; new permit after revocation; nonresidents; penalty for operation with revoked or suspended license	Y01	12.00	0	4
982	50-1403.03		Suspension of minor's motor vehicle operator's permit for alcohol violation	D180	5.90	0	4
983	50-1501.04		Unlawful acts; penalty	D030	1.00	0	4
984	50-1507.03		Registration	D180	5.90	0	4
985	50-1912		Penalty.	D090	3.00	0	4
986	50-2201.03	(d)	Mayor to make rules; Department of Transportation; Director; Congressional and Council parking; title fees; common carriers; penalties; prosecutions; publication of regulations; excise tax; impoundment for outstanding violations.	Y01	12.00	0	4
987	50-2201.03	(f)	Mayor to make rules; Department of Transportation; Director; Congressional and Council parking; title fees; common carriers; penalties; prosecutions; publication of regulations; excise tax; impoundment for outstanding violations.	D090	3.00	0	4



CCRC Sequence for Review of D.C. Criminal Offenses (2-8-21)

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1							
988	50-2201.04	(c-1)(1)	Speeding and reckless driving	D180	5.90	0	4
989	50-2201.04	(c)(1)	Speeding and reckless driving	D090	3.00	0	4
990	50-2201.04b		Operation of all-terrain vehicles and dirt bikes	D030	1.00	0	4
991	50-2201.05b		Fleeing from a law enforcement officer in a motor vehicle	U		U	4
992	50-2201.05c	(d)(1)(B)	Leaving after colliding.	Y01	12.00	0	4
993	50-2201.05c	(d)(2)(A)	Leaving after colliding.	D030	1.00	0	4
994	50-2201.05d		Object falling or flying from vehicle.	D060	2.00	0	4
995	50-2201.06		Garage keeper to report cars damaged in accidents	0		0	4
996	50-2201.28		Right-of-way at crosswalks.	D030	1.00	0	4
997	50-2206.11		Driving under the influence of alcohol or a drug.	D180	5.90	0	4
998	50-2206.12		Driving under the influence of alcohol or a drug; commercial vehicle.	D180	5.90	0	4
999	50-2206.14		Operating a vehicle while impaired.	D090	3.00	0	4
1000	50-2206.16		Operating under the influence of alcohol or a drug; horse- drawn vehicle.	D090	3.00	0	4
1001	50-2206.31		Operating under the influence of alcohol or a drug; watercraft.	D180	5.90	0	4
1002	50-2206.33		Operating a watercraft while impaired.	D030	1.00	0	4
1003	50-2206.36		Additional penalty for impaired operating with a minor in the watercraft.	U		D005	4
1004	50-2302.03		Exception for serious offenders.	D010	0.30	0	4
1005	50-2303.02		Exceptions for serious offenders.	D010	0.30	0	4
1006	50-2303.07		Identification of pedestrian offenders	0		0	4
1007	50-2421.04		Removal of abandoned and dangerous vehicles from public space; penalties	D090	3.00	0	4
1008	50-2421.09		Procedures for reclaiming impounded vehicles; lien; penalties	D090	3.00	0	4
1009	50-2421.10		Disposal of unclaimed vehicles; penalties; auction admission fees	Y01	12.00	0	4
1010	51-0113		Payment of employer contributions	Y01	12.00	0	4
1011	51-0117		Records and reports; inspection; penalties for violation	D090	3.00	0	4
1012	51-0118		Protection of rights and benefits; child support obligations	M06	6.00	0	4
1013	51-0119	(b)	Penalties for false statements or representations	M06	6.00	0	4
1014	51-0119	(a)	Penalties for false statements or representations	D060	2.00	0	4
1015	51-0119	(c)	Penalties for false statements or representations	D060	2.00	0	4